

## SCHEDULE

### SHERIFF COURT ADOPTION RULES 2009

## CHAPTER 3

### CONVENTION ADOPTION ORDERS

#### **Interpretation**

**28.** In this Chapter, unless the context otherwise requires—

“the Convention” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at The Hague on 29th May 1993;

“Convention adoption order” means an adoption which, by virtue of regulation 53(2) of the 2009 Regulations, is made as a Convention adoption order;

“Convention country” means any country or territory in which the Convention is in force; and

“Central Authority” means the Scottish Executive.

#### **Process and form of application**

**29.—**(1) An application for a Convention adoption order is to be made by petition in Form 10.

(2) The following documents must be lodged in process along with a petition under paragraph (1):

- (a) a certificate, register extract, or other proof of date of birth relating to the child who is the subject of the application, issued or authenticated by the applicable Convention country authority;
- (b) in the case of a joint petition by a married couple, a certificate, register extract or other proof of their marriage, issued or authenticated by the applicable Convention country authority;
- (c) in the case of a joint petition by a couple who are civil partners of each other, a certificate, register extract or other proof of their civil partnership, issued or authenticated by the applicable Convention country authority;
- (d) any report by the local authority required by section 19(2) (investigation by local authority on receipt of notice of intention to apply for adoption order) of the 2007 Act, if available;
- (e) any report by an adoption agency required by section 17 (report on the suitability of the applicants and other matters) of the 2007 Act, if available;
- (f) where appropriate, an extract of the order freeing the child for adoption;
- (g) where appropriate, an extract of the permanence order made in respect of the child under section 80 of the 2007 Act;
- (h) in the case of a petition to which the provisions of Chapter 1 of Part 3 of the 2009 Regulations apply—
  - (i) copies of the Article 16 Information and the Agreement under Article 17(c) of the Convention referred to in regulation 34(c) of those Regulations; and
  - (ii) the confirmation referred to in regulation 34(d) of those Regulations;
- (i) in the case of a petition to which the provisions of Chapter 2 of Part 3 of the 2009 Regulations apply—

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- (i) copies of the Article 16 Report and the Agreement under Article 17(c) of the Convention referred to in regulation 51(c) of those Regulations; and
  - (ii) the confirmation referred to in regulation 51(d) of those Regulations;
  - (j) any other document founded on by the petitioner in support of the petition;
  - (k) where appropriate, a translation into English of any document referred to in subparagraphs (a) to (j), together with the certificate referred to in paragraph (3).
- (3) The certificate mentioned in paragraph (2)(k) is a certificate by the translator—
- (a) certifying that the translation is in conformity with the original document; and
  - (b) giving the full name, address and qualifications of the translator.
- (4) A report by a local authority under section 19(2), or an adoption agency under section 17 of the 2007 Act must be in numbered paragraphs and include the following matters:—
- (a) a description of the petitioner's background, including his family history, medical history, his social environment, his reasons for wishing to adopt, his eligibility and suitability to adopt, and in particular his suitability for a Convention adoption order;
  - (b) a description of the child's background, including his family history, his medical history and that of his family, his social environment, his physical and mental health (including any special needs), and his emotional, behavioural and educational development;
  - (c) information about the mutual suitability of the petitioner and the child for the relationship created by adoption, and the ability of the petitioner to bring up the child, including an assessment of the personalities of the petitioner and of the child;
  - (d) particulars of all the members of the household of the petitioner, and their relationship to the petitioner;
  - (e) a description of the accommodation in the home of the petitioner;
  - (f) in a petition by only one member of a relevant couple within the meaning of section 29(3) of the 2007 Act, why the other member of that couple has not joined in the application;
  - (g) whether the petitioner understands the nature and effect of an adoption order and in particular that the order, if made, will make the petitioner responsible for the maintenance and upbringing of the child;
  - (h) whether the means and standing of the petitioner are such as to enable him to maintain and bring up the child suitably;
  - (i) whether the child has any right or interest in property and, if so, what right or interest;
  - (j) whether any payment or other reward in consideration of the proposed adoption, other than an approved adoption allowance has been received or agreed;
  - (k) what insurance has been offered on the life of the child;
  - (l) the religious persuasion, racial origin, and cultural and linguistic background of the child and of the petitioner;
  - (m) considerations arising from the difference in age between the petitioner and the child if this is more or less than the normal difference between parents and children;
  - (n) whether adoption is likely to safeguard and promote the welfare of the child throughout his life;
  - (o) whether the child is subject to a supervision requirement under section 70 of the 1995 Act and, if so, what steps have been taken to comply with section 73(4)(c), (5) and (13) of the 1995 Act;
  - (p) whether there has been a contravention of section 75 of the 2007 Act in relation to the child;

- (q) whether there has been a failure to comply with section 76(2) of the 2007 Act in relation to the child;
- (r) any other matters relevant to the operation of section 14 of the 2007 Act in relation to the application;
- (s) where appropriate, information about whether—
  - (i) in an application under section 29(1) of the 2007 Act, the petitioners are a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act;
  - (ii) in an application under section 30(1) of the 2007 Act, the petitioner is a member of a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act;
- (t) in the case of a petition to which the provisions of Chapter 1 of Part 3 of the 2009 Regulations apply, the confirmation, the date and the details referred to respectively in regulation 33(a), (b) and (c) of those Regulations;
- (u) any other information which may be of assistance to the court.

(5) If no report mentioned in paragraph (2)(d) or (e) is available to be lodged with the petition, the sheriff shall pronounce an interlocutor requiring the local authority or adoption agency to prepare and lodge such a report in court within 2 weeks from the date of the interlocutor, or within such other period as the sheriff in his discretion may allow.

#### **Application of Chapter 2 to Convention adoption orders**

**30.** Rules 11 to 27 (other than paragraphs (1), (2) and (3)(n) of rule 12) of Chapter 2 are to apply to an application under this Chapter, so far as they are not inconsistent with this Chapter, except that—

- (a) rule 11 (appointment of curator *ad litem* and reporting officer) is to be read as if—
  - (i) in paragraph (1), for “rule 8” there were substituted “rule 29”;
  - (ii) in paragraph (1) the words “and reporting officer” were omitted; and
  - (iii) for paragraphs (2) and (3) there were substituted—
    - “(2) Subject to paragraph (3), the sheriff must not appoint a reporting officer;
    - (3) But a reporting officer must be appointed where the child who is the subject of the application is aged 12 or over, for the purpose of witnessing that child’s consent where that consent is to be executed in Scotland.”;
- (b) rule 14 (intimation of application) is to be read as if—
  - (i) in paragraph (1), for “rule 8” there were substituted “rule 29”;
  - (ii) for paragraph (1)(b) there were substituted—
    - “(b) the petitioner must send a copy of the petition along with a notice of intimation in Form 5 to—
      - (i) the curator *ad litem* and the reporting officer;
      - (ii) any person or body who has care or possession of the child; and
      - (iii) any local authority or adoption agency that has prepared a report under section 17 or 19(2) of the 2007 Act.”; and
    - (iii) paragraph (1)(c) and (d) were omitted; and
- (c) rule 23 (communication to the Registrar General) is to be read as if for it there were substituted—

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**“Communications to the Registrar General and the Central Authority**

**23.—**(1) The making of a Convention adoption order is to be intimated in accordance with this rule to the Registrar General and the Central Authority by the sheriff clerk.

(2) A certified copy of the order making a Convention adoption order must be sent to the Registrar General and the Central Authority either by recorded delivery post in an envelope marked “Confidential”, or by personal delivery by the sheriff clerk in a sealed envelope marked “Confidential.”.