
 STATUTORY INSTRUMENTS

1984 No. 1013 (S. 102)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Adoption of Children) 1984

Made - - - - 13th July 1984

Coming into Operation 1st September 1984

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971(a), section 59 of the Adoption (Scotland) Act 1978(b) and of all other powers competent to them in that behalf, after consultation with the Sheriff Court Rules Council, do hereby enact and declare:—

Citation and commencement

1.— (1) This Act of Sederunt may be cited as the Act of Sederunt (Adoption of Children) 1984 and shall come into operation on 1st September 1984.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

(3) In this Act of Sederunt—

“the 1978 Act” means the Adoption (Scotland) Act 1978(c);

“adoption agency” means a local authority or an approved adoption society;

“Her Majesty’s Forces” means the Royal Navy, the regular armed forces as defined by section 225 of the Army Act 1955(d), the regular air force as defined by section 223 of the Air Force Act 1955(e), the Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service; and

“Registrar General” means the Registrar General of Births, Deaths and Marriages for Scotland.

(4) Expressions used in this Act of Sederunt which are used in the 1978 Act have the same meaning as in the 1978 Act.

(5) In this Act of Sederunt a form referred to by number means the form so numbered in the Schedule to this Act of Sederunt or a form substantially to the like effect, with such variation as circumstances may require.

(a) 1971 c. 58.

(b) 1978 c. 28.

(c) As amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 9 and Sch. 2, paragraphs 38 to 45.

(d) 1955 c. 18.

(e) 1955 c. 19.

Revocation

2. The Act of Sederunt (Adoption of Children) 1959(a) is revoked.

PART I

APPLICATION FOR AN ORDER DECLARING A CHILD FREE FOR ADOPTION

Petition

3.— (1) An application under section 18(1) of the 1978 Act for an order declaring a child free for adoption shall be made by petition in form 1.

(2) There shall be lodged in process at the same time as the lodging of a petition under sub-paragraph (1)—

- (a) an extract of the entry in the Register of Births relating to the child who is the subject of the application;
- (b) a report of the adoption agency on the proposed adoption proceedings and the prospects for adoption, if such report is available;
- (c) the consent of a parent or guardian of the child to the petition (unless application for dispensation of consent is sought by the petitioner); and
- (d) any other document founded upon by the petitioner in support of the terms of the petition.

Consents and agreements to order freeing child for adoption

4.— (1) An agreement to an order under paragraph 3(1) required by section 18(1)(a), or a consent required by section 18(8), of the 1978 Act shall be in form 2 or 9 as appropriate and such form duly executed shall be sufficient evidence of such agreement or consent whether the document is executed before or after the commencement of proceedings.

(2) A form of consent or agreement under sub-paragraph (1) shall, if not available at the time of lodging the petition, be lodged so soon as is practicable thereafter.

(3) A form of consent or agreement executed outwith the United Kingdom shall be sufficient evidence of consent if it is executed—

- (a) if the person by whom the document is executed is serving in Her Majesty's forces, by an officer holding a commission in any of those forces; or
- (b) in any other case, by a British consular official, or by any person for the time being authorised by the law of the country in which the form is executed to administer an oath for any judicial or legal purpose.

Appointment of curator ad litem and reporting officer

- 5.— (1) The sheriff shall, after the lodging of a petition under paragraph 3,

(a) S.I. 1959/763.

appoint a curator *ad litem* and reporting officer or reporting officers and, where reasonably practicable, shall appoint the same person as curator *ad litem* and reporting officer in the same petition.

(2) The sheriff may appoint a person who is not a member of a panel established under the Curators *Ad Litem* and Reporting Officers (Panels) (Scotland) Regulations 1984(a) to be a curator *ad litem* or a reporting officer.

(3) The sheriff may, on cause shown, appoint a reporting officer prior to the lodging of a petition.

(4) An application for an appointment under sub-paragraph (3) shall be made by letter addressed to the sheriff clerk specifying the reasons for the appointment, and shall not require to be intimated to any other person.

Duties of reporting officer and curator ad litem

6.— (1) A reporting officer appointed under this part of this Act of Sederunt shall—

- (a) witness any agreement executed within the United Kingdom by a parent or guardian to the making of an adoption order in respect of his child and shall lodge the agreement in process;
 - (b) investigate the giving by a parent or guardian of his consent to the lodging of the petition;
 - (c) ascertain that each parent or guardian who can be found understands that the effect of an adoption order would be to deprive him permanently of his parental rights;
 - (d) ascertain whether there is any person other than those mentioned in the petition upon whom notice of the petition should be served;
 - (e) where a parent or guardian can be found, ascertain whether alternatives to adoption have been discussed with him;
 - (f) confirm that each parent or guardian who can be found understands the implications of an order freeing the child for adoption;
 - (g) confirm that each parent or guardian who can be found understands that he may withdraw his agreement at any time before an order under paragraph 3 is made;
 - (h) confirm that each parent or guardian who can be found is aware that he may in certain circumstances apply to the court for revocation of the order freeing the child for adoption and the appropriate procedure for such an application;
 - (i) confirm that each parent or guardian who can be found has been given an opportunity to make a declaration in terms of section 18(6) of the 1978 Act (declaration of preference not to be involved in future questions concerning the adoption of the child); and
 - (j) in the case of an illegitimate child, consider the likelihood of any person reputed to be the father of the child successfully raising proceedings for custody of, or access to, the child,
- and shall report to the sheriff thereon.

(a) S.I. 1984/566.

(2) A curator *ad litem* appointed under this part of this Act of Sederunt shall—

- (a) generally safeguard the interests of the child who is the subject of the petition and ensure that consideration has been given to the interests of the child required by section 6 of the 1978 Act (duty to promote welfare of child);
- (b) ascertain whether the facts stated in the petition are correct except where investigation of such facts falls within the duties of the reporting officer;
- (c) confirm that the child, if he is a minor, consented to the application;
- (d) ascertain whether an order freeing the child for adoption would promote the child's well-being; and
- (e) report on the current circumstances and care of the child,

and shall report to the sheriff thereon.

Declaration made under section 18(6) of the 1978 Act

7.— (1) A declaration made under section 18(6) of the 1978 Act shall be in form 3, be signed by each parent or guardian of the child and shall be witnessed by the reporting officer.

(2) The reporting officer shall provide a copy of the form of declaration to each parent or guardian of the child for signature and shall explain to him the consequences of signing the declaration and of the terms of section 19 of the 1978 Act (progress reports to former parents).

(3) The reporting officer shall submit the executed declaration to the sheriff clerk who shall thereafter record the declaration in the manner prescribed in paragraph 10.

Hearing

8.— (1) When the reports of the reporting officer and the curator *ad litem* have been received by the court, the sheriff shall order a diet of hearing to be fixed.

(2) Intimation of the diet of hearing shall be made in form 11 by the petitioner to every person who can be found and whose agreement or consent to the making of the order freeing the child for adoption is required to be given or dispensed with.

(3) If no person entitled to appear at such a hearing appears to be heard, the sheriff may make an order freeing the child for adoption on the motion of the petitioner.

(4) If a person, entitled to appear, appears and wishes to be heard, the sheriff may hear him or may order a further diet to be fixed at which he may be heard and evidence given at any such diet shall be given in the presence of the petitioner or his solicitor.

Confidentiality

9.— (1) All documents lodged in process, including the reports of the reporting officer and curator *ad litem* shall, unless the sheriff otherwise directs, be available only to the court, the reporting officer, the curator *ad litem* and the parties. Such documents shall be treated as confidential by any persons involved in, or a party to, the proceedings and by the sheriff clerk.

(2) The reporting officer or curator *ad litem* shall treat all information obtained by him in the exercise of his duties as confidential and shall not disclose any such information to any person unless disclosure of such information is necessary for the proper discharge of his duties.

Register of Adoptions

10.— (1) The sheriff clerk shall maintain a register known as the “Adoption Register”.

(2) The sheriff clerk shall enter any declaration made under section 18(6) of the 1978 Act submitted to him by the reporting officer in the Adoption Register.

(3) A declaration under section 19(4) of the 1978 Act (declaration by former parent not to be involved in future questions concerning the adoption) shall be made in form 3 and the adoption agency shall submit the declaration to the sheriff clerk who shall enter it in the Adoption Register.

PART II

REVOCATION ORDERS, ETC.

Application for revocation

11.— (1) An application for revocation, under section 20(1) of the 1978 Act, of an order freeing a child for adoption shall be made by minute in the process of the original application in form 4 and shall specify detailed proposals for the future well-being of the child.

(2) On the lodging of a minute under sub-paragraph (1), the sheriff shall make an order requiring the applicant to intimate the minute to the petitioner in the original application and to such other person as shall to the sheriff seem appropriate.

(3) Any person to whom intimation has been made under sub-paragraph (2) may, within 14 days after the date on which intimation is made, lodge answers to the minute.

Appointment of curator ad litem

12.— On the lodging of a minute under paragraph 11(1) the sheriff may appoint a curator *ad litem* who shall—

- (a) investigate the facts contained in the minute, and
- (b) investigate the circumstances and care of the child with regard to the promotion of his welfare throughout his childhood and, so far as

practicable, ascertain his wishes and feelings regarding the minute, having regard to his age and understanding, and shall report to the sheriff thereon.

Hearing

13.— (1) Where answers to the minute have been lodged, the sheriff shall order a diet of hearing to be fixed.

(2) Where no answers to the minute have been lodged, the sheriff may either—

- (a) order a diet of hearing to be fixed, or
- (b) order the relevant adoption agency to submit a report to him.

Application to place a child

14.— (1) An application by an adoption agency under section 20(2) of the 1978 Act (leave of court to place a child) shall be made by minute in the original process in form 5.

(2) A minute under sub-paragraph (1) shall be intimated by the applicant to such persons as shall to the sheriff seem appropriate.

Further applications with leave of the court

15. Any further application made with leave of the sheriff in terms of section 20(5) of the 1978 Act (further application by former parent with leave of the court) shall be made by minute in the original process and such minute shall be in form 6, and the provisions of paragraphs 11(2) and (3), 12 and 13 shall apply to an application under this paragraph as they apply to an application under paragraph 11(1).

PART III

ADOPTION ORDERS

Application for adoption order

16.— (1) An application for an adoption order, or for an order vesting parental rights and duties relating to a child under section 49(1) of the 1978 Act (adoption of children abroad), shall be made by petition in form 7 or 8 as appropriate.

(2) A petition under sub-paragraph (1) shall specify—

- (a) the date upon which the child was received into the care and possession of the petitioner;
- (b) whether the child has since that date been continuously in the care and possession of the petitioner;
- (c) the date upon which the petitioner notified the local authority for the area in which he was then resident of his intention to apply for an adoption order in respect of the child;

- (d) whether the petitioner has received or given any reward or payment for or in consideration of the adoption of the child or for the giving of agreement or consent to the making of an adoption order;
 - (e) what persons have taken part in the arrangement for placing the child in his care; and
 - (f) particulars of any order freeing the child for adoption.
- (3) There shall be lodged in process along with the petition—
- (a) an extract of the entry in the Register of Births relating to the child who is the subject of the application;
 - (b) in the case of a joint petition by a married couple, an extract of the entry in the Register of Marriages relating to their marriage;
 - (c) a medical certificate of the health of the petitioner or each of the joint petitioners except where the petitioner or one of the joint petitioners is a parent of the child;
 - (d) any report by the adoption agency required by section 23 of the 1978 Act (report on the suitability of the applicants);
 - (e) any report by the local authority required by section 22(2) of the 1978 Act (investigation by local authority on receipt of notice of intention to apply for adoption order);
 - (f) subject to the terms of paragraph 18(2), any consent required by section 12(8) (consent of minor), or any agreement required by section 16(1) (parental agreement), of the 1978 Act; and
 - (g) any other document founded upon by the petitioner in support of the terms of his petition.

(4) If no report by the adoption agency under sub-paragraph (3)(d) is available to be lodged along with the petition, the petitioner shall intimate the petition to the adoption agency concerned with a request that such a report be produced.

Additional requirements where child to be adopted abroad

17.— (1) In a petition for an order under section 49(1) of the 1978 Act, the petitioner shall, in addition to complying with paragraph 16, adduce evidence of the law of adoption in the country in which he is domiciled.

(2) The evidence of the law of adoption required under sub-paragraph (1) may be in the form of an affidavit by a person who is conversant with the law of adoption of that country and who practices or has practiced law in that country or is a duly accredited representative of the government of that country in the United Kingdom.

Consents and agreements to adoption orders

18.— (1) A consent to an order under paragraph 16 required by section 12(8), or an agreement required by section 16(1), of the 1978 Act shall be in form 9 or 10 as appropriate and such form duly executed shall be sufficient evidence of such consent or agreement whether the document is executed before or after the commencement of proceedings.

(2) A form of consent or agreement under sub-paragraph (1) shall, if not available at the time of lodging the petition, be lodged so soon as is practicable thereafter.

(3) A form of consent or agreement executed outwith the United Kingdom shall be sufficient evidence of consent if it is executed—

- (a) if the person by whom the document is executed is serving in Her Majesty's forces, by an officer holding a commission in any of those forces; or
- (b) in any other case, by a British consular official, or by any person for the time being authorised by the law of the country in which the form is executed to administer an oath for any judicial or legal purpose.

Protection of identity of petitioner

19.— (1) When any person who proposes to apply for an order under paragraph 16 wishes to prevent his identity being disclosed to any person whose agreement to the order is required, he may, before presenting his petition, apply to the sheriff clerk for a serial number to be assigned to him for all purposes connected with the petition.

(2) On receipt of an application for a serial number, the sheriff clerk shall assign such a number to the applicant and shall enter a note of it opposite the name of the applicant in a register of such serial numbers.

(3) The contents of the register of serial numbers and the names of the persons to whom each number relates shall be treated as confidential by the sheriff clerk and shall not be disclosed to any person other than the sheriff.

(4) Where a serial number has been assigned to an applicant in terms of sub-paragraph (2), any form of agreement to an adoption order which is required shall not contain the name or designation of the petitioner but shall refer to him by means of the serial number assigned to him and shall specify the year in which, and by which court, such serial number has been assigned.

Appointment of reporting officer and curator ad litem

20.— (1) The sheriff shall, after the lodging of a petition under paragraph 16, appoint a curator *ad litem* and a reporting officer or reporting officers, and, where reasonably practicable, appoint the same person as curator *ad litem* and reporting officer in the same petition.

(2) The sheriff may appoint a person who is not a member of a panel established under the Curators *Ad Litem* and Reporting Officers (Panels) (Scotland) Regulations 1984 to be curator *ad litem* or a reporting officer.

Duties of reporting officer and curator ad litem

21.— (1) A reporting officer appointed under this part of this Act of Sederunt shall—

- (a) witness any agreement executed within the United Kingdom by a parent or guardian to the making of an adoption order in respect of his child and shall lodge the agreement in process;

- (b) ascertain that each parent or guardian whose agreement is required or may be dispensed with understands that the effect of the adoption order would be to deprive him permanently of his parental rights;
- (c) ascertain whether there is any person other than those mentioned in the petition upon whom notice of the petition should be served;
- (d) where a parent or guardian whose agreement is required or may be dispensed with can be found, ascertain whether alternatives to adoption have been discussed with him; and
- (e) confirm that each parent or guardian whose agreement is required understands that he may withdraw his agreement at any time before an order under paragraph 16 is made,

and shall report to the sheriff thereon.

- (2) A curator *ad litem* appointed under this part of this Act of Sederunt shall—
 - (a) generally safeguard the interests of the child whose adoption is the subject of the petition;
 - (b) ascertain whether the facts stated in the petition are correct and if they are not establish the true facts;
 - (c) obtain particulars of the accommodation in the home of the petitioner and the condition of the home;
 - (d) obtain particulars of all members of the household of the petitioner and their relationship to the petitioner;
 - (e) in the case of a petition by one of two spouses, the reasons of the other spouse for not joining in the application;
 - (f) ascertain whether the means and status of the petitioner are sufficient to enable him to maintain and bring up the child suitably;
 - (g) ascertain what rights or interests in property the child has;
 - (h) establish that the petitioner understands the nature and effect of an adoption order and in particular that the making of the order will render him responsible for the maintenance and upbringing of the child;
 - (i) ascertain when the mother of the child ceased to have the care and possession of the child and to whom care and possession was then transferred;
 - (j) ascertain whether any payment or other reward in consideration of the adoption has been given or agreed upon;
 - (k) establish whether the adoption is likely to safeguard and promote the welfare of the child throughout his childhood;
 - (l) ascertain whether the life of the child has been insured and for what sum;
 - (m) ascertain whether it is in the interests of the welfare of the child that the sheriff should make any interim order or make the adoption order subject to particular terms and conditions or require the petitioner to make special provision for the child and if so what provision;
 - (n) where the petitioner is not ordinarily resident in the United Kingdom, establish whether a report has been obtained on the home and living

conditions of the petitioner from a suitable agency in the country in which he is ordinarily resident;

- (o) establish the reasons of the petitioner for wishing to adopt the child;
- (p) establish to which religion, if any, the petitioner subscribes;
- (q) assess the considerations which might arise where the difference in ages as between the petitioner and the child is greater or less than the normal difference in age as between parents and their children;
- (r) consider such other matters, including the personality of the petitioner and, where appropriate, that of the child, which might affect the suitability of the petitioner and the child for the relationship created by adoption and affect the ability of the petitioner to bring up the child; and
- (s) ascertain, so far as practicable, the wishes and feelings of the child, regarding the proposed adoption,

and shall report to the sheriff thereon.

Hearing

22.— (1) When the reports of the reporting officer and the curator *ad litem* in respect of a child who is not free for adoption have been received by the court, the sheriff shall order a diet of hearing to be fixed.

(2) Intimation of the diet of hearing shall be made in form 11 by the petitioner to the following persons—

- (a) in a petition for an adoption order, every person who can be found and whose agreement or consent to the making of such an order is required to be given or dispensed with, or
- (b) in a petition for an order under section 49(1) of the 1978 Act, every person who can be found and whose agreement to the making of such an order would be required if the application were for an adoption order.

(3) The sheriff may, if he considers it appropriate, ordain the petitioner to serve notice of the date of the hearing in form 11, on the following persons—

- (a) any person or body having the rights and powers of a parent of the child or having the custody or care of the child or a local authority having the child committed to its care by virtue of section 5 of the Guardianship of Infants Act 1886(a), section 10 of the Matrimonial Proceedings (Children) Act 1958(b) sections 16 and 17 of the Social Work (Scotland) Act 1968(c), section 9 of the Guardianship of Minors Act 1971(d), section 43 of the Matrimonial Causes Act 1973(e), or sections 2(2)(b) and 11(1)(a) of the Guardianship Act 1973(f);

(a) 1886 c. 27.

(b) 1958 c. 40.

(c) 1968 c. 49.

(d) 1971 c. 3.

(e) 1973 c. 18.

(f) 1973 c. 29.

- (b) any person liable by virtue of any order or agreement to contribute to the maintenance of the child;
 - (c) the local authority to whom the petitioner has given notice of his intention to apply for an adoption order;
 - (d) any other person or body who in the opinion of the sheriff ought to be served with notice of the hearing.
- (4) If no person entitled to appear at such a hearing appears to be heard, the sheriff may grant an adoption order on the motion of the petitioner.
- (5) If a person, entitled to appear, appears and wishes to be heard, the sheriff may hear him or may order a further diet to be fixed at which he may be heard. Evidence given at such diets shall be given in the presence of the petitioner or his solicitor.

Insufficient evidence

23.— If the sheriff is not satisfied that the facts stated in the petition are supported by the documents lodged along with the petition or by the reports of the curator *ad litem* and reporting officer, or if for any reason he considers it appropriate, he may refuse to grant any adoption order or interim order without production of further documents or hearing oral evidence and may order that such productions be lodged or evidence led.

Confidentiality

24.— (1) Unless the sheriff otherwise directs, all documents lodged in process including the reports by the curator *ad litem* and the reporting officer shall be available only to the sheriff, the curator *ad litem*, the reporting officer and the parties. Such documents shall be treated as confidential by all persons involved in, or a party to, the proceedings and by the sheriff clerk.

(2) The reporting officer or curator *ad litem* shall treat all information obtained by him in the exercise of his duties as confidential and shall not disclose any such information to any person unless disclosure of such information is necessary for the proper discharge of his duties.

Adoption by married couples

25. A married couple may petition for an adoption order in respect of a child who has already been adopted by one of them.

Communications to the Registrar General

26. The communication to the Registrar General of an adoption order or order for the revocation of an adoption order required to be made by the sheriff clerk shall be made by sending a certified copy of the order to the Registrar General either by recorded delivery post in an envelope marked "Confidential" or by personal delivery by the sheriff clerk in a sealed envelope marked "Confidential".

Adoption Orders

27.— (1) An adoption order granted by the sheriff shall specify the name and address of the adoption agency, if any, which has taken part in the arrangements for placing the child in the care of the petitioner.

(2) No extract of an adoption order shall be issued except with the authority of the sheriff who made the order.

(3) The authority required by sub-paragraph (2) shall be obtained by lodging a petition setting forth the reasons for which the extract is required.

Final procedure

28.— (1) After the granting of an order under this part of this Act of Sederunt the court process shall, immediately upon the communication under paragraph 26 being made or, in the event of an extract of the order being issued under paragraph 27, immediately upon the issue of such extract, be sealed by the sheriff clerk in an envelope marked “Confidential”.

(2) The envelope referred to in sub-paragraph (1) shall not be unsealed by the sheriff clerk or any other person having control of the records of that or any court, and the process shall not be made accessible to any person, for one hundred years after the date of the granting of the adoption order except—

- (a) to an adopted child who has attained the age of seventeen years and to whose adoption the process refers;
- (b) to the sheriff clerk, on an application made to him by an adoption agency and with the consent of the adopted person for the purpose only of ascertaining the name of the agency, if any, responsible for the placement of that person and informing the applicant of that name;
- (c) to a court, public authority or administrative board (whether in the United Kingdom or not) having power to authorise an adoption, on petition by it to the court which granted the original order requesting that information be made available from the process for the purpose of discharging its duties in considering an application for adoption and specifying the precise reasons for which access to the process is required; or
- (d) to a person who is authorised by the Secretary of State to obtain information from the process for the purposes of such research as is intended to improve the working of adoption law and practice.

Amendment of adoption order

29.— (1) An application under paragraph 4(1) of Schedule 1 to (amendment of orders and rectification of Registers), or section 46(1) of (revocation where adoptive parent marries other parent), the 1978 Act shall be by petition to the court which pronounced the adoption order.

(2) The sheriff may order the petitioner to intimate the petition to such persons as to the sheriff may seem appropriate.

(3) In an application for revocation of an adoption order the sheriff shall not

grant a petition unless he is satisfied that the petition has been served upon every parent of the child whose whereabouts can be ascertained.

Application for removal of child pending adoption

30.— (1) An application under section 27(1) (restrictions on removal where adoption agreed or application made under section 18(1)), section 28 (restrictions on removal where applicant has provided home for five years), section 29 (return of child taken away in breach of sections 27 or 28), or section 30(2) (return of children placed for adoption), of the 1978 Act shall be made by minute lodged in the process of the original adoption petition.

(2) A minute under paragraph (1) shall set forth the relevant facts and the crave which the minuter wishes to make.

(3) On receipt of the minute the sheriff shall order a diet of hearing to be fixed and shall ordain the minuter to send a notice of such hearing in form 12 together with a copy of the minute by registered post or by recorded delivery letter to the petitioner or petitioners in the original petition, to the curator *ad litem* in the original petition, to any person who may have care and possession of the child and to such other persons as the sheriff may deem appropriate.

PART IV

EXPENSES

Expenses

31. The sheriff may make such order with regard to the expenses of an application under this Act of Sederunt as he thinks fit and may modify such expenses or direct them to be taxed on such scale as he may determine.

Emslie,
Lord President
I.P.D.

Edinburgh,
13th July, 1984

SCHEDULE

Paragraph 3(1)

Form 1

APPLICATION FOR AN ORDER DECLARING A CHILD FREE FOR ADOPTION UNDER THE ADOPTION (SCOTLAND) ACT 1978 SECTION 18

PETITION OF

AB(address) Petitioner

For an order in relation to the child, CD

(Full Name)
(Date of Birth)

Presently residing at

(Address)

The Petitioner craves the court [(1)] to make an order declaring the child, CD, free for adoption [; and (2) to dispense with the agreement [or consent] of on the ground that].

The following documents are produced herewith:

- a. An extract of the entry in the Register of Births relating to the child;
- b. *Consent of (name and address) to the making of this application;
- c. *Consent by the child dated ;
- d. *Adoption agency report dated .

Signed
and designation

Date

*Delete as appropriate.

Form 2

Paragraph 4(1)

FORM OF PARENTAL AGREEMENT UNDER THE ADOPTION
(SCOTLAND) ACT 1978 SECTION 18

In the petition by *(Adoption Agency, Name and Address)*

for an order declaring the child—
—*(full name of child)*

free for adoption,

I, *(Name, Address)*

confirm that I am the mother/father/guardian of the child. I fully understand that on the making of an order under section 18 of the Adoption (Scotland) Act 1978 any parental right or duty which I have at present relating to the child vests in the petitioners and that the effect of an adoption order will be permanently to deprive me of these parental rights or duties. I freely agree generally and unconditionally to the making of an adoption order in relation to the child.

I have signed this agreement at *(place of signing)*

on the _____ day of _____ Nineteen
hundred and _____ years.

(Signature)

This agreement was signed in the presence of:—

(Signature of reporting officer).....

Full name

Address

Paragraph 7(1) or 10(3)

Form 3

DECLARATION UNDER SECTION 18(6) OR SECTION 19(4) OF THE ADOPTION (SCOTLAND) ACT 1978

In the petition by (adoption agency, name and address)

for an order declaring the child (full name)

free for adoption,

I/We,

being the

of the child, hereby declare that I/we prefer not to be involved in future questions concerning the adoption of the child.

In witness whereof I/we have signed this declaration on the day of

, Nineteen hundred

and

Signature.....
Signature.....

Signed in presence of

(Signature)
Full name

Designation and Reporting Officer

Address

FOR OFFICIAL USE ONLY

The foregoing declaration was received at the Sheriff Clerk's Office,

on

19 , and has

been duly entered in the adoption register of that court.

Signature.....

Sheriff Clerk Depute

Form 4

Paragraph 11 (1)

APPLICATION TO REVOKE AN ORDER FREEING A CHILD FOR ADOPTION UNDER THE ADOPTION (SCOTLAND) ACT 1978 SECTION 20(1)

MINUTE

by

(Full name, address)

in relation to the child

(Full name and Date of Birth)

The Minuter craves the court to revoke the order declaring the child free for adoption on the ground that he/she wishes to resume parental rights and duties and condescends as follows:

1. An order freeing the child for adoption was made on
2. More than twelve months have elapsed since the child was freed for adoption
3. No adoption order has been made in respect of the child
4. The child at present resides at
and does not have his home with a person with whom he had been placed for adoption
5. The minuter makes the following proposals for the future well-being of the child:—

Signed
and designation

Date

Paragraph 14(1)

Form 5

APPLICATION (FOR LEAVE OF COURT) TO PLACE CHILD FOR ADOPTION UNDER THE ADOPTION (SCOTLAND) ACT 1978 SECTION 20(2)

MINUTE BY

(Full Name, Address)

in relation to the child

(Full Name and Address and Date of Birth)

presently residing at

The minuters crave leave of the court to place the child for adoption and condescend as follows:

- a. An order in terms of section 18 of the Adoption (Scotland) Act 1978 declaring the child free for adoption was made by the court on 19 , in a petition by the minuters.
- b. An application to revoke the aforesaid order was lodged on 19 , by and application for revocation has not yet been determined by the court.
- c. (Set out here the circumstances justifying the placing of the child.)

Date Signature and designation

Form 6

Paragraph 15

FURTHER APPLICATION BY FORMER PARENT TO REVOKE AN ORDER
FREEING A CHILD FOR ADOPTION
UNDER THE ADOPTION (SCOTLAND) ACT 1978 SECTION 20(5)

MINUTE BY

(Full Name and Address)

in relation to the child

(Full Name and Address) Born on *(Date of Birth)*

The minuter craves leave of the court to make this further application on the ground that:— *(narrate the change in circumstances or other proper reason for application)*

The minuter craves the court to revoke the order declaring the child free for adoption on the ground that he wishes to resume parental rights and duties and condescends as follows:

- a. An order freeing the child for adoption was made on
- b. An application to the court to revoke the order was made on _____, but was refused on _____
- c. More than twelve months have elapsed since the child was freed for adoption.
- d. No adoption order has been made in respect of the child.
- e. The child at present resides at _____ and does not have his home with a person with whom he has been placed for adoption.
- f. The minuter makes the following proposals for the future well-being of the child:—

Signature
and designation

Date

Paragraph 16(1)

Form 7

PETITION FOR ADOPTION ORDER UNDER THE ADOPTION (SCOTLAND)
ACT 1978 SECTION 12

Petition of

AB (*Full Name*)[and (*Full Name* of Spouse)

Maiden Surname

Any previous married surname]

(*Address*)

For authority to adopt the child

(*Full Name of child as shown on birth certificate*), born on(*Child's date of birth*)(*Child's present address*)

1. The petitioner(s) crave(s) the court [(1)] to make an adoption order in his/her/their favour under section 12 of the Adoption (Scotland) Act 1978, in relation to the child [; and to dispense with the agreement [*or consent*] of _____ on the ground that _____ and consents as follows:

- a. The petitioner(s) is/are domiciled in _____ and reside(s) at _____ [or the male/female petitioner is domiciled in _____ and both petitioners reside at _____].
 - b. The occupation(s) of the petitioner(s) is/are _____
 - c. The petitioner(s) is/are married [*or unmarried or widow or widower*]. (*If married, state whether spouse resides with, or apart from, the petitioner.*)
 - d. The petitioner(s) is/are [respectively] _____ [and] _____ years of age.
 - e. The petitioner(s) has/have resident with him/her/them the following persons, namely _____
 - f. The child was received into the care and possession of the petitioners on (*date*) _____
 - g. The child has been continuously in the care and possession of the petitioner(s) since the date shown above.
 - h. The petitioner(s) notified (*give name of local authority notified*) of his/her/their intention to apply for an adoption order in relation to the child on (*date*) _____
 - i. *Arrangements for placing the child in the care of the petitioner(s) were made by (*give full name and address of agency or authority or person making such arrangements*) _____
- (*Delete this statement if it does not apply)

- (x)* report by local authority in terms of section 22(2) of the Adoption (Scotland) Act 1978
 - (ix)* report by the adoption agency in terms of section 23 of the Adoption (Scotland) Act 1978
 - (xii)* any other document not referred to above.
- (*Delete as appropriate)

7. _____ have taken part in the arrangements for placing the child in the care of the petitioner(s).

The petitioner(s) humbly crave(s) the court to dispense with intimation and to order notice of this petition to be served on such persons, if any, as the court may think proper, and thereafter, on resuming consideration hereon, to make

an adoption order in favour of the petitioner(s) under the Adoption (Scotland) Act 1978 section 12 on such terms and conditions (if any) as the court may think fit, and to direct the Registrar-General for Scotland to make an entry regarding the adoption in the Adopted Children Register in the form prescribed by him, giving _____ as the forename(s), and the surname of the adopter(s) as the

surnames, of _____ in the form; and further, upon proof to the satisfaction of the court in the course of the proceedings to follow hereon, that *(name of child)*

was born on the _____ day of _____ in the year nineteen hundred and _____ and is identical with the _____

to whom any entry numbered _____ and made on the day of _____ in the year 19 _____, in the Register of Birth for the Registration District of _____ in the _____ relates, to direct the said Registrar General to cause such birth entry to be marked with the word "adopted" and to include the above-mentioned date of birth in the entry recording the adoption in the manner indicated in the Schedule to the _____ and to pronounce such other or further orders or directions upon such matters, including the expenses of this petition, as the court may think fit.

.....
Signature of Male petitioner

.....
Signature of Female petitioner

or

.....
Signature of Solicitor with Designation and Address

.....
.....

Form 8

Paragraph 16(1)

PETITION FOR AN ORDER UNDER THE ADOPTION (SCOTLAND) ACT 1978
SECTION 49

Petition of

AB (*Full Name*)

[and (*Full Name of Spouse*)

Maiden Surname

Any previous married surname]

(*Address*)

For an order vesting in him/her/them the parental rights and duties relating to the child.

(*Full name of child as shown on birth certificate*), born on

(*Child's date of birth*)

(*Child's present address*)

1. The petitioner(s) crave(s) the court [(1)] to make an order under section 49 of the Adoption (Scotland) Act 1978 vesting in him/her/them the parental rights and duties relating to the child [; and to dispense with the agreement [*or consent*] of
on the ground that] and
condescends as follows:

- a. The petitioner(s) is/are domiciled in
and reside at
- b. The occupation(s) of the petitioner(s) is/are
- c. The petitioner(s) is/are married [*or unmarried or widow or widower*]. (*If married state whether spouse resides with, or apart from, the petitioner.*)
- d. The petitioner(s) is/are [respectively] [and]
years of age.
- e. The petitioner(s) has/have resident with him/her/them the following persons,
namely
- f. The child was received into the care and possession of the petitioners on
(*date*)
- g. The child has been continuously in the care and possession of the petitioner(s)
since the date shown above.
- h. The petitioner(s) notified (*give name of local authority notified*) of his/her/their
intention to apply for an adoption order in relation to the child on (*date*)
- i. *Arrangements for placing the child in the care of the petitioner(s) were made
by (*give full name and address of agency or authority or person making such
arrangements*)
(*Delete this statement if it does not apply)
- j. An order freeing the child for adoption was made at
Sheriff Court of (*date*)

[or an order declaring the child free for adoption has not been made.]

- k. No reward or payment has been given or received by the petitioner(s) for or in consideration of the adoption of the child or giving of consent to the making of an adoption order.
2. a. The child is _____ years of age, having been born on the _____ day of _____ 19____, at _____ in the County of _____
- b. The child is not and has never been married and is male/female.
- c. The child's natural mother is *(full name and address)*
- d.* The child's natural father is *(full name and address)*

OR

- e.* Paternity of the child has not been admitted or established by decree of any court.
(*Delete either d. or e. as appropriate)
- f. The child is of British/or _____ nationality
- g. The child is entitled to the following property, namely
- h. The child has the following tutors, curators or guardians *(Either give full names and addresses or delete the paragraph if it does not apply)*
3. _____ is/are liable to contribute to the support of the child.
4. The child has not been the subject of an adoption order or of a petition for an adoption order save that

5. The petitioner(s) are prepared to undertake, if an order is made on this petition, to make for the child the following provision, namely:—

6. There is lodged along with this application the following documents
- (i) extract birth certificate relating to the child
- (ii) extract marriage certificate relating to the petitioners
(Note: this need be lodged only in the case of a joint application by spouse)
- (iii) medical certificate relating to the health of the male petitioner
- (iv) medical certificate relating to the health of the female petitioner
(Note: medical certificates need not be produced where either the petitioner or one of the joint petitioners is a parent of the child)
- (v)* agreement to the adoption by the child's natural mother
- (vi)* agreement to the adoption by the child's natural father
- (vii)* consent to the adoption by the child
- (viii)* consent to the adoption by the tutor or curator
(*Delete where appropriate)

- (ix)* acknowledgement by local authority of letter by petitioners intimating intention to apply for adoption order
- (x)* report by local authority in terms of section 22(2) of the Adoption (Scotland) Act 1978
- (ix)* report by the adoption agency in terms of section 23 of the Adoption (Scotland) Act 1978
- (xii)* an affidavit by _____ who is conversant with the law of _____ and has practised law as a _____
 adoption of _____ [or represents that country as (*state capacity*)
 in the United Kingdom.

(*Delete where appropriate)

7. _____ have taken part in the arrangement for placing the child in the care of the petitioner(s).

The petitioner(s) humbly crave(s) the court to dispense with intimation and to order notice of this petition to be served on such persons, if any, as the court may think proper, and thereafter, on resuming consideration hereof, to make

an order under the Adoption (Scotland) Act section 49, vesting in the petitioners the parental rights and duties relating to (*name of child*) _____ on such terms and conditions (if any) as the court may think fit; to authorise removal of the child for the purpose of adoption under the laws of _____ to find the petitioners entitled to the custody of the child pending such adoptions and to direct the Registrar General for Scotland to make an entry regarding the order in the Adopted Children Register in the form prescribed by him, giving _____ as the forename(s) and the surname of the proposed adopters as the surname of, in the form; and further, upon proof to the satisfaction of the court in the course of the proceedings to follow hereon, that the child _____ was born on the _____ day of _____ in the year Nineteen hundred and _____ and is identical with the _____ to whom any entry numbered _____ and made on the _____ day of _____ in the year 19 _____, in the Register of Births for the Registration District of _____ in the _____ relates, to direct the said Registrar General to cause such birth entry to be marked with the words "proposed foreign adoption" and to include the above-mentioned date of birth in the entry recording the order in the manner indicated in the Schedule to the said Act; and to pronounce such other or further orders of directions upon such matters, including the expenses of this petition, as the court may think fit.

.....
Signature of Male petitioner or Agent

.....
Signature of Female petitioner or Agent

or
.....
Signature of Solicitor with Designation and Address
.....
.....

Paragraph 4(1) or 18(1)

Form 9

FORM OR CONSENT UNDER THE ADOPTION (SCOTLAND) ACT 1978
SECTION 12(8) OR SECTION 18(8)

in the

Petition

by

(Name and Address)

Petitioner

I, *(full name of child)* confirm that I understand the nature and effect of any order declaring me free for adoption/adoption order for which application is made. I hereby consent to the making of such an order in the petitioners favour in respect of myself.

I have signed this consent at *(place of signing)*

on the

day of

Nineteen

hundred and

years.

(Signature)

This consent was signed in the presence of:—

1st Witness

2nd Witness

Signature

Signature

Full Name

Full Name

Designation

Designation

Address

Address

Form 10

Paragraph 18(1)

FORM OF PARENTAL AGREEMENT UNDER THE ADOPTION (SCOTLAND)
ACT 1978 SECTION 16(1)

In the petition relating to the adoption of

(Insert the full name of the child as it is given in the birth certificate)

to which petition the court has assigned the serial number

I, *(name and address)*

confirm that I am the mother/father/guardian of the child. I fully understand that the effect of the adoption order for which application has been made will be permanently to deprive me of any parental right or duty which I have at present over the child. I freely agree generally and unconditionally to the making of an adoption order in relation to the child.

I have signed this agreement at *(place of signing)*

on the

day of

Nineteen

hundred and

years.

(Signature)

This agreement was signed in the presence of:—

(Signature of Reporting Officer)

Full name

Address

Paragraph 8(2) or 22

Form 11

FORM OF INTIMATION OF DIET OF HEARING UNDER THE ADOPTION (SCOTLAND) ACT 1978 SECTION 12 OR SECTION 18

To:—

(Full name and address of person to whom this intimation is to be sent)

Notice is given that a hearing will take place at

Sheriff Court

(Name of sheriff court)

(Full address of court)

on

at

(date)

(time)

in relation to the child *(full name of child as given in the birth certificate)*

when the court will consider an application for an order declaring the child free for adoption *[or an application for adoption of the child]*.

You do not need to attend this hearing if you do not wish to be heard by the court.

If you do not attend this hearing the court may make an order as noted above.

Signature
and Designation
Date

Form 12

Paragraph 30(3)

FORM OF INTIMATION OF DIET OF HEARING UNDER THE ADOPTION
(SCOTLAND) ACT 1978 SECTION 27, 28, 29 OR 30

Notice of hearing of Minute in petition for authority to adopt:

(Full name of child as given in the birth certificate)

To:—

(Full name and address of person to whom this intimation is to be sent)

Notice is hereby given that a hearing in the petition for authority to adopt the child,
which hearing will be restricted to matters bearing upon the crave of the Minute, a copy
of which is attached hereto, will take place at *(name of sheriff court)*

Sheriff Court *(Address)*

on

(date) at *(time)* when, if so advised, you may appear
and be heard personally or by solicitor or counsel.

Signature

.....
Designation

Date

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt revokes and replaces the Act of Sederunt (Adoption of Children) 1959. It makes new provisions for rules on adoption of children in the Sheriff Court.

The rules in this Act of Sederunt are consequential upon the coming into force of the Adoption (Scotland) Act 1978 (except sections 1 and 2) on 1st September 1984. The 1978 Act consolidates (and repeals) the Adoption Acts 1958 to 1964 and the provisions relating to adoption in the Children Act 1975 in so far as they relate to Scotland.

The new rules include (a) procedure for applications to free a child for adoption and for revocation of such an order introduced by sections 14 and 16 of the 1975 Act (now sections 18 and 20 of the 1978 Act) (Part I); and (b) provisions for the appointment of reporting officers (introduced by section 20 of the 1975 Act, now section 58 of the 1978 Act) (paragraphs 5 and 20) and curators *ad litem* (paragraphs 5, 12 and 20), for the duties of reporting officers and curators *ad litem* (paragraphs 6, 12 and 21), and for reports by local authorities and adoption agencies under sections 22(2) and 23 of the 1978 Act.

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