

## SCHEDULE 1

*(introduced by section 53(4))*

### REGISTRATION OF ADOPTIONS

#### *Registration of adoption orders*

- 1 (1) Every adoption order must contain a direction to the Registrar General to make in the Adopted Children Register an entry in the form prescribed by regulations made by the Registrar General with the approval of the Scottish Ministers.
- (2) For the purposes of compliance with the requirements of sub-paragraph (1)—
  - (a) where the precise date of the child’s birth is not proved to the satisfaction of the court—
    - (i) the court is to determine the probable date of the child’s birth, and
    - (ii) the date so determined is to be specified in the adoption order as the date of the child’s birth,
  - (b) where the country of birth of the child is not proved to the satisfaction of the court—
    - (i) if it appears probable that the child was born in a part of the British Islands, the child is to be treated as having been born in Scotland,
    - (ii) in any other case, the particulars of the country of birth may be omitted from the adoption order and from the entry in the Adopted Children Register,
  - (c) where—
    - (i) the application for the adoption order specifies a name (or names) and surname as being those of the child, that name (or those names) and surname are to be recorded in the adoption order as the name (or names) and surname of the child,
    - (ii) no name (or names) or surname is so specified, the original name (or names) of the child and the surname of the applicant are to be recorded in the adoption order as the name (or names) and surname of the child.
- 2 (1) Sub-paragraph (2) applies where—
  - (a) on an application to the appropriate court for an adoption order in respect of a child, the identity of the child with a child to whom an entry in the register of births relates is proved to the satisfaction of the court, and
  - (b) the child has not previously been the subject of an adoption order made by a court in Scotland under this Act or any enactment at the time in force.
- (2) Any adoption order made in pursuance of the application must contain a direction to the Registrar General to secure that the entry in the register of births is marked with the word “Adopted”.
- 3 Where an adoption order is made in respect of a child who has previously been the subject of an adoption order made by a court in Scotland under this Act or any enactment at the time in force, the order must contain a direction to the Registrar General to secure that the previous entry in the Adopted Children Register is marked with the word “Re-adopted”.
- 4 (1) Where an adoption order is made, the clerk of the court which made the order must secure that the order is communicated to the Registrar General.

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- (2) As soon as is reasonably practicable after receipt of the communication, the Registrar General must secure that the direction contained in the order is complied with.

*Registration of adoptions in other parts of the British Islands*

- 5 (1) Sub-paragraphs (2) and (3) apply where the Registrar General is notified by the authority maintaining a register of adoptions in a part of the British Islands outwith Scotland that an order has been made in that part authorising the adoption of a child.
- (2) If an entry in the register of births (and no entry in the Adopted Children Register) relates to the child, the Registrar General must secure that the entry is marked with the word “Adopted” followed by the name, in brackets, of the part of the British Islands in which the order was made.
- (3) If an entry in the Adopted Children Register relates to the child, the Registrar General must mark the entry with the word “Re-adopted” followed by the name, in brackets, of the part of the British Islands in which the order was made.
- (4) Where, after an entry in either of the registers mentioned in sub-paragraphs (2) and (3) has been so marked, the Registrar General is notified by the authority concerned that—
- (a) the order has been quashed,
  - (b) an appeal against the order has been allowed, or
  - (c) the order has been revoked,
- the Registrar General must secure that the marking is cancelled.
- (5) Where the marking of an entry in a register is cancelled under sub-paragraph (4), an extract of the entry is not to be treated as accurate unless both the marking and the cancellation are omitted from it.
- (6) This paragraph applies in relation to orders corresponding to orders under section 59 as it applies in relation to orders authorising the adoption of a child except that any marking of an entry required by virtue of this sub-paragraph is to consist of the words “proposed foreign adoption” or, as the case may require, “proposed foreign re-adoption” followed by the name, in brackets, of the part of the British Islands in which the order was made.

*Registration of other adoptions*

- 6 (1) If the Registrar General is satisfied, on an application under this paragraph, that the Registrar General has sufficient particulars relating to a child adopted under a registrable foreign adoption to enable an entry to be made in the Adopted Children Register for the child, the Registrar General must make the entry accordingly.
- (2) If the Registrar General is also satisfied that an entry in the register of births relates to the child, the Registrar General must secure that the entry in that register is marked “Adopted” or “Re-adopted”, as the case may be, followed by the name, in brackets, of the country in which the adoption was effected.
- (3) An application under this paragraph must be made in the prescribed manner by a prescribed person and the applicant must provide the prescribed particulars.
- (4) An entry made in the Adopted Children Register by virtue of this paragraph must be made in the prescribed form.

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(5) In this paragraph—

“prescribed” means prescribed by regulations made by the Registrar General with the approval of the Scottish Ministers,

“registrable foreign adoption” means an adoption which satisfies prescribed requirements and which is—

- (a) a Convention adoption, or
- (b) an overseas adoption.

#### *Amendment of orders and rectification of registers*

- 7 (1) The court by which an adoption order has been made may, on the application of the adopter or the adopted person, amend the order by the correction of any error in the particulars contained in it.
- (2) The court by which an adoption order has been made may, if satisfied on the application of the adopter or the adopted person that before the expiry of the period of one year beginning with the date of the order any new name—
- (a) has been given to the adopted person (whether in baptism or otherwise), or
  - (b) has been taken by the adopted person,
- in place of or in addition to a name specified in the particulars required to be entered in the Adopted Children Register in pursuance of the order, amend the order by substituting or, as the case may be, adding that name in those particulars.
- (3) The court by which an adoption order has been made may, if satisfied on the application of any person concerned that a direction for the marking of an entry in the register of births or the Adopted Children Register included in the order in pursuance of paragraph 2 or 3 was wrongly so included, revoke that direction.
- (4) Where an adoption order is amended or a direction revoked under sub-paragraphs (1) to (3), the clerk of the court must secure that the amendment is communicated in the prescribed manner to the Registrar General.
- (5) As soon as is reasonably practicable after receipt of the communication, the Registrar General must secure that—
- (a) the entry in the Adopted Children Register is amended accordingly, or
  - (b) the marking of the entry in the register of births or the Adopted Children Register is cancelled,
- as the case may be.
- (6) Where an adoption order is quashed or an appeal against an adoption order allowed by any court, the court must give directions to the Registrar General to secure that—
- (a) any entry in the Adopted Children Register, and
  - (b) any marking of an entry in that register or, as the case may be, the register of births,
- which was effected in pursuance of the order is cancelled.
- (7) Where an adoption order has been amended, any extract of the relevant entry in the Adopted Children Register which may be issued in pursuance of section 54 must be a copy of the entry as amended, without the reproduction of—
- (a) any note or marking relating to the amendment, or
  - (b) any matter cancelled in pursuance of it.

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- (8) Where the marking of an entry is cancelled, an extract of the entry is not to be treated as accurate unless both the marking and the cancellation are omitted from it.
- (9) If the Registrar General is satisfied—
- (a) that a registrable foreign adoption (as defined in sub-paragraph (5) of paragraph 6) has ceased to have effect (whether on annulment or otherwise), or
  - (b) that any entry or mark was erroneously made in pursuance of that paragraph in the Adopted Children Register or the register of births,
- the Registrar General may secure that such alterations are made in those registers as the Registrar General considers are required in consequence of the adoption ceasing to have effect or to correct the error.
- (10) Where an entry in such a register is amended in pursuance of sub-paragraph (9), an extract of the entry is not to be treated as accurate unless it shows the entry as amended but without indicating that it has been amended.
- (11) In this paragraph, “prescribed” means prescribed by regulations made by the Registrar General with the approval of the Scottish Ministers.

*Marking of entries on re-registration of birth*

- 8 Without prejudice to any other provision of this Act, where—
- (a) an entry in the register of births has been marked in accordance with paragraph 5 or 6, and
  - (b) the birth is re-registered under section 20(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49),
- the entry made on re-registration must be marked in the same way.

SCHEDULE 2

*(introduced by section 120(1))*

MINOR AND CONSEQUENTIAL AMENDMENTS

*Succession (Scotland) Act 1964 (c. 41)*

- 1 (1) The Succession (Scotland) Act 1964 is amended as follows.
- (2) In section 23 (treatment of adopted person for purposes of succession etc.)—
- (a) in subsection (3), after “1978” insert “or in the Adoption and Children (Scotland) Act 2007 (asp 4)”, and
  - (b) in subsection (5)—
    - (i) the words from “has” to “this Act)” become paragraph (a) of that subsection, and
    - (ii) after that paragraph, insert “; and
- (b) includes an adoption order within the meaning of section 28(1) of the Adoption and Children (Scotland) Act 2007 (asp 4);”.

- (3) In subsection (1) of section 37 (exclusion of certain matters from operation of Act), after “1978” insert “or the Adoption and Children (Scotland) Act 2007 (asp 4)”.

*Social Work (Scotland) Act 1968 (c. 49)*

- 2 (1) The Social Work (Scotland) Act 1968 is amended as follows.
- (2) In section 5 (powers of Scottish Ministers)—
- (a) in subsection (1B), after paragraph (p) insert—  
“(q) the Adoption and Children (Scotland) Act 2007 (asp 4).”;
  - (b) in subsection (2)(c), for “and (p)” substitute “, (p) and (q)”, and
  - (c) in subsection (5), for the words from “has” to the end of the subsection substitute “means a person who is under the age of 18.”.
- (3) In subsection (1)(b) of section 6A (inquiries), for “section 65 of the Adoption (Scotland) Act 1978” substitute “section 119(1) of the Adoption and Children (Scotland) Act 2007 (asp 4)”.
- (4) In subsection (3A) of section 10 (assistance to voluntary organisations etc. for social work), after “adoption” insert “support”.

*Foster Children (Scotland) Act 1984 (c. 56)*

- 3 In subsection (5)(a) of section 2 of the Foster Children (Scotland) Act 1984 (exceptions to section 1), for “section 1 of the Adoption (Scotland) Act 1978” substitute “section 119(1) of the Adoption and Children (Scotland) Act 2007 (asp 4)”.

*Child Abduction and Custody Act 1985 (c. 60)*

- 4 In paragraph 5 of Schedule 3 to the Child Abduction and Custody Act 1985 (custody orders), after sub-paragraph (vi), insert—
- “(vii) an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007 (asp 4);
  - (viii) a permanence order (as defined in subsection (2) of section 80 of that Act) which includes provision such as is mentioned in paragraph (c) of that subsection.”.

*Family Law Act 1986 (c. 55)*

- 5 In subsection (1)(b) of section 1 of the Family Law Act 1986 (orders to which Part 1 applies), after sub-paragraph (ix), insert—
- “(x) an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007 (asp 4);
  - (xi) a permanence order (as defined in subsection (2) of section 80 of that Act) which includes provision such as is mentioned in paragraph (c) of that subsection”.

*Human Fertilisation and Embryology Act 1990 (c. 37)*

- 6 In subsection (10) of section 30 of the Human Fertilisation and Embryology Act 1990 (parental orders in favour of gamete donors), after “1987” add “and the Adoption and Children (Scotland) Act 2007 (asp 4)”.

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*Child Support Act 1991 (c. 48)*

- 7 In subsection (3) of section 26 of the Child Support Act 1991 (disputes about parentage), after “1978” insert “or Chapter 3 of Part 1 of the Adoption and Children (Scotland) Act 2007 (asp 4)”.

*Civil Evidence (Family Mediation) (Scotland) Act 1995 (c. 6)*

- 8 In sub-paragraph (iii) of section 2(1)(d) of the Civil Evidence (Family Mediation) (Scotland) Act 1995 (exceptions to general rule of inadmissibility), for the words from “an” to the end of the sub-paragraph substitute “the making of an adoption order (as defined in section 29(1) of the Adoption and Children (Scotland) Act 2007 (asp 4))”.

*Children (Scotland) Act 1995 (c. 36)*

- 9 (1) The Children (Scotland) Act 1995 is amended as follows.
- (2) In section 11 (court orders relating to parental responsibilities etc.)—
- (a) in subsection (4)—
    - (i) for “(3)(a)(iii)” substitute “(3)(ab)”, and
    - (ii) after paragraph (a) insert “or”,
  - (b) in subsection (5), after “(3)(a)” insert “and (ab)”, and
  - (c) in subsection (6), for the words from “have” to the end substitute “has the meaning given by section 119 of the Adoption and Children (Scotland) Act 2007 (asp 4)”.
- (3) In subsection (1) of section 15 (interpretation of Part 1), in the definition of “parent”, after “30” insert “and Chapter 3 of Part 1 of the Adoption and Children (Scotland) Act 2007 (asp 4)”.
- (4) In subsection (6) of section 17 (duty of local authority to child looked after by authority)—
- (a) the word “or” after paragraph (c) is repealed, and
  - (b) after paragraph (d) add “; or
  - (e) in respect of whom a permanence order has, on an application by them under section 80 of the Adoption and Children (Scotland) Act 2007 (asp 4), been made and has not ceased to have effect.”.
- (5) In section 44 (prohibition of publication of proceedings at children’s hearing), at end insert—
- “(6) The requirements of subsection (1) do not apply in relation to the publication by or on behalf of a local authority or an adoption agency (within the meaning of the Adoption and Children (Scotland) Act 2007 (asp 4)) of information about a child for the purposes of making arrangements in relation to the child under this Act or that Act.”.
- (6) In subsection (2) of section 54 (reference to the Principal Reporter by court)—
- (a) in paragraph (c), for the words from “Adoption” to the end of the paragraph, substitute “Adoption and Children (Scotland) Act 2007 (asp 4)”, and
  - (b) after that paragraph, insert—

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“(ca) proceedings for the making, variation or revocation of a permanence order under that Act in respect of a child who is not subject to a supervision requirement;”.

(7) In section 73 (duration and review of supervision requirement)—

(a) in subsection (4), in paragraph (c), for the words from “applying” in sub-paragraph (i) to the end of that paragraph substitute—

“(i) applying under section 80 of the Adoption and Children (Scotland) Act 2007 (asp 4) (“the 2007 Act”) for a permanence order;

(ii) applying under section 92 of the 2007 Act for variation of such an order;

(iii) applying under section 93 of the 2007 Act for amendment of such an order;

(iv) applying under section 98 of the 2007 Act for revocation of such an order; or

(v) placing the child for adoption,

and they intend to make any such application or to place the child for adoption.”,

(b) after that subsection insert—

“(4A) The Scottish Ministers may make regulations specifying by reference to the occurrence of an event or events described in the regulations the period of time during which a referral under subsection (4)(c) is to be made.”,

(c) in subsection (5), for “section 12 of the said Act of 1978” substitute “section 29 or 30 of the 2007 Act”,

(d) in subsection (8), in paragraph (a), after sub-paragraph (iv) insert—

“(iva) the case has been referred to him under section 96(3) or 106 of the Adoption and Children (Scotland) Act 2007 (asp 4),”,

(e) in subsection (13)—

(i) for the words from “section”, where it first occurs, to “1978” substitute “section 80 of the 2007 Act”, and

(ii) for “section 12” substitute “section 29 or 30”,

(f) after subsection (13) insert—

“(13A) A report drawn up under subsection (13) shall be in such form as may be prescribed by the Scottish Ministers.”, and

(g) in subsection (14), for the words from “section”, where it first occurs, to “1978”, substitute “section 29, 30 or 80 of the 2007 Act”.

(8) In subsection (2) of section 93 (interpretation of Part 2), after paragraph (b) of the definition of “relevant person” insert—

“(ba) any person in whom parental responsibilities or parental rights are vested by, under or by virtue of a permanence order (as defined in section 80(2) of the Adoption and Children (Scotland) Act 2007 (asp 4));”.

(9) In paragraph (a) of subsection (1) of section 101 (panel for curators *ad litem*, reporting officers and safeguarders), for “under section 58 of the Adoption (Scotland)

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Act 1978” substitute “by virtue of section 108 of the Adoption and Children (Scotland) Act 2007 (asp 4)”.

- (10) In paragraph 4 of Schedule 3 (transitional provisions and savings), for subparagraph (e) substitute—
- “(e) the making of an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007 (asp 4)) in respect of the child;
  - (f) the making of a permanence order (as defined in subsection (2) of section 80 of that Act) which includes provision such as is mentioned in paragraph (c) of that subsection in respect of the child.”.

*Adoption (Intercountry Aspects) Act 1999 (c. 18)*

- 10 In section 1 of the Adoption (Intercountry Aspects) Act 1999 (regulations giving effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption), after subsection (6) add—
- “(7) References in this section to enactments include references to Acts of the Scottish Parliament.”.

*Regulation of Care (Scotland) Act 2001 (asp 8)*

- 11 (1) The Regulation of Care (Scotland) Act 2001 is amended as follows.
- (2) In paragraph (a) of subsection (3) of section 21 (offences in relation to registration under Part 1), for “section 11 of the Adoption (Scotland) Act 1978 (c. 28)” substitute “section 75(1), (3) or (4) of the Adoption and Children (Scotland) Act 2007 (asp 4)”.
  - (3) In paragraph (b) of subsection (6) of section 25 (inspections), at the end of the paragraph add “or section 8 or 37 of the Adoption and Children (Scotland) Act 2007 (asp 4)”.
  - (4) In subsection (1) of section 77 (interpretation), in paragraph (a) of the definition of “child”, for “in section 65(1) of the Adoption (Scotland) Act 1978 (c. 28)” substitute “by section 119(1) of the Adoption and Children (Scotland) Act 2007 (asp 4)”.

*Adoption and Children Act 2002 (c. 38)*

- 12 In paragraph (a) of subsection (3) of section 123 of the Adoption and Children Act 2002 (restriction on advertisements etc.), after “(N.I. 22)” insert “or section 60 or 75 of the Adoption and Children (Scotland) Act 2007 (asp 4)”.

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 13 In section 745 of the Income Tax (Trading and Other Income) Act 2005—
- (a) in paragraph (a), for the words from “or”, where it first occurs, to “court)” substitute “which is an excepted payment by virtue of paragraph (a) or (c) of subsection (2) of section 73 of the Adoption and Children (Scotland) Act 2007 (asp 4),”;
  - (b) in paragraph (b), for the words from “under” to the end of the paragraph, substitute “which are excepted payments by virtue of paragraph (b) of that subsection,”, and



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(c) in paragraph (d), for “section 51A” substitute “section 71”.

*Joint Inspection of Children’s Services and Inspection of Social Work Services (Scotland) Act 2006 (asp 3)*

- 14 In subsection (2) of section 7 of the Joint Inspection of Children’s Services and Inspection of Social Work Services (Scotland) Act 2006 (interpretation), after paragraph (p) add—  
“(q) the Adoption and Children (Scotland) Act 2007 (asp 4);”.

SCHEDULE 3

(introduced by section 120(2))

REPEALS

<i>Enactment</i>	<i>Extent of repeal</i>
Social Work (Scotland) Act 1968 (c. 49)	In section 5(1B), paragraph (i) and the word “and” after paragraph (o).
Children Act 1975 (c. 72)	In section 107(1), the definition of “adoption society”.
Adoption (Scotland) Act 1978 (c. 28)	The whole Act except Part IV.
Health and Social Services and Social Security Adjudications Act 1983 (c. 41)	In Schedule 2, paragraphs 38 to 45.
Foster Children (Scotland) Act 1984 (c. 56)	In section 2(5)(a), the words “and possession”. In Schedule 2, paragraphs 6 and 7.
Child Abduction and Custody Act 1985 (c. 60)	In Schedule 3, paragraph 5(ii) and (ia).
Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)	Sections 27 and 28.
Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9)	In Schedule 1, paragraph 18.
Incest and Related Offences (Scotland) Act 1986 (c. 36)	In Schedule 1, paragraph 5.
Family Law Act 1986 (c. 55)	Section 1(1)(b)(ii) and (iii). In Schedule 1, paragraph 31.
Children Act 1989 (c. 41)	Section 88(2). In Schedule 10, Part 2.
Human Fertilisation and Embryology Act 1990 (c. 37)	In section 30(10), the word “and”. In Schedule 4, paragraph 6.

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<i>Enactment</i>	<i>Extent of repeal</i>
Age of Legal Capacity (Scotland) Act 1991 (c. 50)	In subsection (3) of section 2, the words from “; and accordingly” to the end of the subsection.  In Schedule 1, paragraph 36.
Local Government etc. (Scotland) Act 1994 (c. 39)	In Schedule 13, paragraph 111.
Civil Evidence (Family Mediation) (Scotland) Act 1995 (c. 6)	Section 2(1)(d)(iv).
Children (Scotland) Act 1995 (c. 36)	In section 11, in subsection (4), paragraphs (b) and (d) and the word “or” immediately preceding paragraph (d); and, in subsection (6), the words ““adoption agency” and”.  In section 16(4)(b)(i), the words “a parental responsibilities order,”.  In section 26(1)(a), the words from “on” to “determine”.  Sections 86 to 89.  In section 93(1), the definition of parental responsibilities order.  Sections 94 to 98.  Schedule 2.
Adoption (Intercountry Aspects) Act 1999 (c. 18)	Sections 3, 5, 6, 8, 9, 11 to 13 and 18(2).  In Schedule 2, paragraphs 2(a) and 4.
Care Standards Act 2000 (c. 14)	In Schedule 4, paragraph 6.
Regulation of Care (Scotland) Act 2001 (asp 8)	Section 21(3)(b) and the word “or” immediately preceding it.  In section 25(6)(b), the words “section 9 of the Adoption (Scotland) Act 1978 (c. 28) or”.  In schedule 3, paragraph 7.
Adoption and Children Act 2002 (c. 38)	In section 123(3), the words “section 11 or 50 of the Adoption (Scotland) Act 1978 (c. 28) or”.  Sections 132 to 134.  In Schedule 3, paragraphs 21 to 35 and 84.
Human Fertilisation and Embryology (Deceased Fathers) Act 2003 (c. 24)	In the Schedule, paragraph 11.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	Section 745(c).

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<i>Enactment</i>	<i>Extent of repeal</i>
Joint Inspection of Children’s Services and Inspection of Social Work Services (Scotland) Act 2006 ( <a href="#">asp 3</a> )	Section 7(2)(h).

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