
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 182

**The Adoptions with a Foreign
Element (Scotland) Regulations 2009**

PART 3

ADOPTIONS UNDER THE CONVENTION

CHAPTER 1

**PROCEDURE IN SCOTLAND WHERE THE
UNITED KINGDOM IS THE RECEIVING STATE**

Procedure following receipt of Article 16 Information

21.—(1) Where the Central Authority receives from the CA of the State of origin the Article 16 Information relating to the child who the CA of the State of origin considers should be placed for adoption with the prospective adopters, the Central Authority must send that information to the adoption agency.

(2) The adoption agency must consider the Article 16 Information and—

- (a) send the Information to the prospective adopters;
- (b) meet with the prospective adopters to discuss the Information, the proposed placement and the availability of adoption support services; and
- (c) if appropriate, offer—
 - (i) such counselling as may be necessary in connection with the proposed adoption; and
 - (ii) further information as required.

(3) Where—

- (a) the procedure in paragraph (2) has been followed;
- (b) the prospective adopters have (or, in the case of a relevant couple where there are exceptional circumstances, one of them has) visited the child in the State of origin; and
- (c) after that visit, the prospective adopters have confirmed to the adoption agency that—
 - (i) they have visited the child;
 - (ii) they have provided the adoption agency with any additional reports and information received on or after that visit; and
 - (iii) they wish to proceed to adopt the child,

the adoption agency must notify the Central Authority in writing that the requirements specified in sub-paragraphs (a) to (c) have been satisfied and, at the same time, confirm that it is satisfied that there are no impediments to the adoption proceeding.

(4) Where the Central Authority has received notification from the adoption agency under paragraph (3), the Authority must—

- (a) notify the CA of the State of origin that—
 - (i) the prospective adopters wish to proceed to adopt the child; and
 - (ii) it is prepared to agree with the CA of the State of origin that the adoption may proceed; and
 - (b) confirm to the CA of the State of origin that—
 - (i) in the case where the requirements specified in section 1(5A) of the British Nationality Act 1981 are met, that the child will be authorised to enter and reside permanently in the United Kingdom; or
 - (ii) in any other case, if entry clearance and leave to enter and remain, as may be necessary, is granted and not revoked or curtailed and a Convention adoption order or a Convention adoption is made, the child will be authorised to enter and reside permanently in the United Kingdom.
- (5) The Central Authority must inform the adoption agency and the prospective adopters when the agreement under Article 17(c) of the Convention has been made.
- (6) For the purposes of this regulation, regulation 22 and regulation 34, “the Article 16 Information” means—
- (a) the report referred to in Article 16 of the Convention including information about the child’s identity, adoptability, background, social environment, family history, medical history including that of the child’s family and any special needs of the child;
 - (b) proof of confirmation that the consents of the persons, institutions and authorities whose consents are necessary for adoption have been obtained in accordance with Article 4 of the Convention; and
 - (c) the reasons for the CA of the State of origin’s determination on the placement.