
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

Breakdown of placement

31.—(1) This regulation applies where—

- (a) notification is given by the prospective adopters under regulation 29 that they do not wish to proceed with the adoption;
- (b) the child is withdrawn from the prospective adopters under regulation 30 or is otherwise removed by the relevant local authority under any other power competent to it;
- (c) an application for a Convention adoption order is refused;
- (d) a Convention adoption which is subject to a probationary period cannot be made; or
- (e) a Convention adoption order or a Convention adoption is annulled pursuant to section 68(1) of the Act.

(2) Where the relevant local authority is satisfied that it would be in the child's best interests to be placed for adoption with other prospective adopters habitually resident in the United Kingdom, the authority must take the necessary measures to identify suitable adoptive parents for the child.

(3) Where the relevant local authority has identified and approved other prospective adopters who are eligible to adopt and who have been assessed as suitable to be adoptive parents in accordance with these Regulations, or their equivalent applying elsewhere in the British Islands, the authority must notify the Central Authority in writing that—

- (a) other prospective adopters have been identified; and
- (b) regulations 13 to 18, 20 and 21 have been complied with in respect of the other prospective adopters.

(4) Where the Central Authority has been notified in accordance with paragraph (3)(a), the Authority must—

- (a) inform the CA of the State of origin of the proposed placement; and
- (b) seek to reach agreement under Article 17(c) of the Convention with the CA of the State of origin in accordance with the provisions in this Chapter.

(5) Where the relevant local authority—

- (a) is not satisfied as mentioned in paragraph (2); or

- (b) is so satisfied but is unable to identify and approve other prospective adopters as mentioned in paragraph (3),

the authority must liaise with the Central Authority to arrange for the return of the child to the child's State of origin.

- (6) Before coming to any decision under this regulation, the relevant local authority must–
 - (a) have regard to the wishes and feelings of the child (taking into account the child's age and understanding); and
 - (b) where appropriate, obtain the child's consent in relation to measures to be taken under this regulation.