

2016 No. 154

CHILDREN AND YOUNG PERSONS

The Scotland's Adoption Register Regulations 2016

Made - - - - *15th March 2016*

Coming into force - - *1st April 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 13A(2)(a) of the Adoption and Children (Scotland) Act 2007(b) and all other powers enabling them to do so.

In accordance with section 117(5) of that Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Scotland's Adoption Register Regulations 2016 and come into force on 1st April 2016.

Interpretation

2.—(1) In these Regulations—

“the 2009 Regulations” means the Adoption Agencies (Scotland) Regulations 2009(c);

“the Act” means the Adoption and Children (Scotland) Act 2007;

“child who ought to be placed for adoption” means a child—

- (a) in respect of whom an adoption agency has decided under the 2009 Regulations that adoption is in the child's best interests;
- (b) in respect of whom an adoption agency has decided under the 2009 Regulations that an application for a permanence order granting authority for the child to be adopted should be made under section 80 of the Act; or
- (c) who an adoption agency mentioned in paragraph (b) of the definition of “adoption agency” in section 119(1) of the Act(d) is satisfied ought to be placed for adoption; and

(a) Section 13A was inserted by section 75 of the Children and Young People (Scotland) Act 2014 (asp 8).

(b) 2007 asp 4 (“the Act”).

(c) S.S.I. 2009/154.

(d) Paragraph (b) of the definition of “adoption agency” in section 119(1) of the Act provides that for the purpose of section 13A of the Act this includes an adoption agency within the meaning of section 2(1) of the Adoption and Children Act 2002 (c.38) and an adoption agency within the meaning of Article 3 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203).

“prospective adopter” means a person—

- (a) who an adoption agency has decided under the 2009 Regulations is suitable to be an adoptive parent; or
- (b) with whom an adoption agency mentioned in paragraph (b) of the definition of “adoption agency” in section 119(1) of the Act is satisfied is suitable to have a child placed for adoption.

(2) Where the Scottish Ministers have made arrangements with an organisation under section 13B(1) of the Act, references in these Regulations to “the Scottish Ministers” are to be read as references to a registration organisation^(a).

Information to be included in Register

3. The information relating to adoption which is to be included in the Register is the information—

- (a) about a child who ought to be placed for adoption as set out in Schedule 1 including any such information which is, immediately before 1st April 2016, contained in the register known as “Scotland’s Adoption Register” and which is run on behalf of the Scottish Ministers by St Andrew’s Children’s Society^(b); and
- (b) about prospective adopters as set out in Schedule 2 including any such information which is, immediately before 1st April 2016, contained in the register mentioned in paragraph (a).

Information about children to be provided for inclusion in Register

4.—(1) This regulation applies where—

- (a) an adoption agency mentioned in paragraph (a) of the definition of “adoption agency” in section 119(1) of the Act decides under the 2009 Regulations that—
 - (i) adoption is in the best interests of a child; or
 - (ii) an application for a permanence order granting authority for a child to be adopted should be made under section 80 of the Act; and
- (b) in the case of a child aged 12 or over who an adoption agency considers is capable of consenting to information about that child being provided to the Scottish Ministers under this regulation for inclusion in the Register, the child has consented to that information being so provided.

(2) Subject to paragraph (3), the adoption agency must, no later than 3 months beginning with the date of the decision mentioned at paragraph (1)(a), provide to the Scottish Ministers for inclusion in the Register the information set out in Schedule 1 in respect of the child.

(3) The requirement at paragraph (2) does not apply where an adoption panel has, at the date of the adoption agency decision mentioned in paragraph (1)(a) or at any time during the period of 3 months mentioned in paragraph (2), recommended, under the 2009 Regulations, that a prospective adopter would be a suitable adoptive parent for the child.

(4) Where, after information is provided under this regulation for inclusion in the Register, an adoption agency becomes aware of any change to the information, the agency must notify the Scottish Ministers of that change as soon as is reasonably practicable.

(5) Where a child in respect of whom information has been provided under this regulation is placed for adoption by an adoption agency with a prospective adopter, the adoption agency must notify the Scottish Ministers as soon as is reasonably practicable.

(a) Section 13B(1) of the Act provides that the Scottish Ministers may authorise an organisation to perform their functions in respect of the Register. Section 13B(3) defines such an organisation as a “registration organisation”.

(b) This is a register held at the office of St Andrew’s Children’s Society, 7 John’s Place, Edinburgh, EH6 7EL (Charity Number SC005754).

(6) Where, after information is provided under this regulation, it is decided that adoption is no longer in the child's best interests or that an application for a permanence order granting authority for the child to be adopted should not be made under section 80 of the Act, an adoption agency must as soon as is reasonably practicable—

- (a) notify the Scottish Ministers of that; and
- (b) inform the Scottish Ministers of the reason for this decision.

Information about prospective adopters to be provided for inclusion in Register

5.—(1) This regulation applies where—

- (a) an adoption agency mentioned in paragraph (a) of the definition of “adoption agency” in section 119(1) of the Act decides under the 2009 Regulations that a person is suitable to be an adoptive parent; and
- (b) the agency has obtained the written consent of the person to information being provided to the Scottish Ministers under this regulation for inclusion in the Register.

(2) Subject to paragraph (3), the agency must, no later than 3 months beginning with the date of the decision mentioned at paragraph (1)(a), provide to the Scottish Ministers for inclusion in the Register the information set out in Schedule 2 to these Regulations in respect of the person.

(3) The requirement at paragraph (2) does not apply where an adoption panel has, at the date of the adoption agency decision mentioned in paragraph (1)(a) or at any time during the period of 3 months mentioned in paragraph (2), recommended, under the 2009 Regulations, that the person would be a suitable adoptive parent for a particular child.

(4) Where, after information is provided under this regulation for inclusion in the Register, an adoption agency becomes aware of any change to the information, the agency must notify the Scottish Ministers of that change as soon as is reasonably practicable.

(5) Where a child is placed for adoption by an adoption agency with a person in respect of whom information has been provided under this regulation, the adoption agency must notify the Scottish Ministers as soon as is reasonably practicable.

(6) Where, after information is provided under this regulation, it is decided that the person in respect of whom the information was provided is no longer suitable to be an adoptive parent, an adoption agency must as soon as is reasonably practicable—

- (a) notify the Scottish Ministers of that; and
- (b) inform the Scottish Ministers of the reason for this decision.

Retention of information

6.—(1) As soon as is reasonably practicable after being notified under regulation 4(4) or 5(4) of any change to information provided for inclusion in the Register the Scottish Ministers must amend the Register accordingly.

(2) As soon as is reasonably practicable after being notified under regulation 4(5) that a child in respect of whom information has been provided for inclusion in the Register has been placed for adoption by an adoption agency with a prospective adopter, the Scottish Ministers must remove from the Register any information relating to that child.

(3) As soon as is reasonably practicable after being notified under regulation 5(5) that a child has been placed for adoption with a person in respect of whom information has been provided for inclusion in the Register, the Scottish Ministers must remove from the Register any information relating to that person.

(4) Where information is removed from the Register under this regulation—

- (a) the Scottish Ministers may retain on the Register such of that information as they consider necessary for statistical or research purposes; and

- (b) any information which is retained on the Register must be retained in a form in which any person in respect of whom that information was included in the Register cannot be identified.

Disclosure of information

7.—(1) Information contained in the Register may be disclosed by the Scottish Ministers to an adoption agency mentioned in paragraph (a) of the definition of “adoption agency” in section 119(1) of the Act for the purpose of helping that agency—

- (a) to find a person with whom it would be appropriate to place a child for whom the agency is acting; or
- (b) to find a child who is appropriate for adoption by a person for whom the agency is acting.

(2) Information provided to an adoption agency under paragraph (1) may be disclosed by the agency to such persons as the agency considers necessary for the purpose of assisting the agency to find a person with whom it would be appropriate to place a child for whom the agency is acting or to find a child who is appropriate for adoption by a person for whom the agency is acting.

(3) Information contained in the Register may be disclosed by the Scottish Ministers to a prospective adopter mentioned in paragraph (a) of the definition of “prospective adopter” in regulation 2 for the purpose of assisting an adoption agency to find a child who is appropriate for adoption by that person.

(4) Information contained in the Register may be disclosed by the Scottish Ministers to a person who maintains a register in respect of England, Wales or Northern Ireland which contains information about children who are suitable for adoption or prospective adopters, for the purpose of enabling the information to be entered on that register.

AILEEN CAMPBELL

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
15th March 2016

SCHEDULE 1

Regulations 3(a) and 4(2)

Information about children who ought to be placed for adoption

1. The full name of the child (“C”) and the name by which C is known if different.
2. The name and address of the adoption agency providing the information about C.
3. The name and telephone number of C’s social worker.
4. C’s date of birth.
5. C’s gender.
6. C’s nationality.
7. C’s racial origin.
8. C’s religious persuasion if any (including details of any baptism, confirmation or equivalent ceremonies) and whether C practises C’s religion.
9. Any wishes expressed by C’s parents or guardians as to C’s religious upbringing.
10. The local authority area in which C lives.
11. If C is a looked after child within the meaning of section 17(6) of the 1995 Act, details of any accommodation being provided to C under section 25 of that Act or, if C is subject to an order mentioned in section 17(6) of that Act or an order mentioned in section 17(6) of that Act has been made in respect of C, details of that order.
12. Whether the adoption agency proposes to make arrangements for C to be adopted or for an application for a permanence order with authority for C to be adopted should be made under section 80 of the Act.
13. Whether the adoption agency intends to place C for adoption with C’s siblings and if so the full name and date of birth of each sibling to be placed and whether C and C’s siblings are currently accommodated together.
14. C’s first language and details of any other languages spoken by C and details of languages spoken by C’s parents.
15. Details of any geographical considerations in relation to C’s placement.
16. Details of any planned contact between C and any other person.
17. C’s state of health including C’s physical, emotional and mental health, any medical treatment C is currently receiving and any anticipated future health problems.
18. C’s health history including, so far as practicable, C’s family health history.
19. Details of any past experience C has had of neglect, physical abuse or sexual abuse.
20. Details of any additional support needs which C has or any co-ordinated support plan prepared in respect of C within the meaning of the Education (Additional Support for Learning)(Scotland) Act 2004(a).
21. Details of any qualities that the adoption agency is looking for in a family to meet the needs of C.

(a) 2004 asp 4.

22. Where an assessment of C's needs for adoption support services has been carried out under section 9 of the Act, details of C's needs for such services.

23. A photograph, film or any other audio-visual recording of C.

SCHEDULE 2

Regulations 3(b) and 5(2)

Information about prospective adopters

1. The full name of the prospective adopter (“P”) and the name by which P is known if different.
2. P’s gender.
3. P’s date of birth.
4. P’s nationality.
5. P’s address including the local authority area.
6. P’s racial origin.
7. P’s religious persuasion if any and whether P practises their religion.
8. P’s first language and details of any additional languages spoken.
9. The name and address of the adoption agency providing the information about P.
10. The name and telephone number of P’s social worker.
11. P’s current occupation and hours of work.
12. P’s proposed employment arrangements after any placement.
13. Details of other members of P’s household (including any children of P whether or not resident in the household) and any caring responsibilities which P has.
14. Details of any adults not living in P’s household who have responsibility for any of P’s children on a regular basis.
15. Details of any pets that P has.
16. Details of any recommendation of the adoption panel as to the children that P would be suitable to adopt including any recommendation as to the maximum number, gender and age of such children.
17. P’s views about contact with C’s birth family.
18. P’s views about the health and past experience of children that might be placed with P.
19. Where an assessment of P’s needs for adoption support services has been carried out under section 9 of the Act, details of P’s needs for such services.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to Scotland's Adoption Register ("the Register").

The Register was established by Chapter 1A of the Adoption and Children (Scotland) Act 2007 (asp 4) which was inserted by section 75 of the Children and Young People (Scotland) Act 2014 (asp 8). Provision is made in Chapter 1A in connection with the Register. Chapter 1A and these Regulations come into force on 1st April 2016.

These Regulations make provision about the information which the Register is to contain (regulation 3 and Schedules 1 and 2). Regulation 4 provides that where a Scottish adoption agency decides that adoption is in the child's best interests or that an application should be made for a permanence order granting authority for a child to be adopted, information about that child must be provided to the Register. Regulation 5 provides that where a Scottish adoption agency decides that a person would be suitable to be an adoptive parent, information about that person must be provided to the Register. Regulation 6 makes provision about the retention of information on the Register. Regulation 7 authorises the disclosure of information from the Register in certain circumstances.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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