

SCHEDULE 1

Regulation 3(1)(c)

INFORMATION IN APPLICATION FOR APPROVAL TO ACT AS OR CONTINUE TO ACT AS AN ADOPTION SOCIETY FOR A SPECIFIC SERVICE

1. The adoption society shall specify the following:—
 - (a) the nature of the service or services to be the subject of approval;
 - (b) the need for such a service or services; and
 - (c) how that service or those services contribute to the Scottish Adoption Service.
2. The applicant shall also provide information on the following:—
 - (a) the number and qualifications of its staff;
 - (b) its financial resources;
 - (c) the organisation and control of its operations;
 - (d) its procedures for dealing with complaints; and
 - (e) if the application is for continuing approval, a record of its activities in the previous 3 years.

SCHEDULE 2

Regulations 8, 9

PART 1

PARTICULARS RELATING TO THE CHILD

1. Name, sex, date and place of birth and address.
2. Whether the child's father was married to his mother at the time of birth or subsequently. If they have not married, whether he has any parental responsibilities and rights through an order or an agreement.
3. Nationality and race.
4. Physical description.
5. Details of any court orders relating to the child, including residence, maintenance, or parental contact or court orders awarding or depriving any person of the parental responsibilities or rights in respect of the child.
6. Details of any current or previous supervision requirements relating to the child imposed by children's hearings.
7. Details of any brothers and sisters, including dates of birth, addresses, arrangements in respect of residence and contact and whether any brother or sister is also being considered for adoption and, if so, whether it would be in the child's interests to place them together.
8. Extent of contact by all members of the child's birth family, including his father even if he is not married to the mother, and details of any court orders relating to contact.
9. Religious persuasion of the child including details of any baptism, confirmation or equivalent ceremonies and level of current religious observance.
10. Personality and social development.

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11. If the child has been looked after by a local authority details (including dates) of placements, including particulars of the persons with whom the child has had his home and observations on the care provided.

12. Names and addresses of schools attended and educational attainments.

13. Any special needs in relation to the physical or mental health of the child and his emotional and behavioural development, and whether he is the subject of a record of special educational needs under the Education (Scotland) Act 1980(1).

14. The child's views in relation to adoption and, if relevant, an application under section 18 of the Act taking into account his age and maturity, including any wishes in respect of his religious persuasion, racial origin and cultural and linguistic background.

15. Whether the child has any right to or interest in any property.

16. Whether an insurance policy for the payment on the death of the child of money for funeral expenses has been effected.

17. A comprehensive medical report signed by a fully registered medical practitioner, including such details as the medical adviser to the adoption agency considers necessary in the circumstances of the child.

18. Any other relevant information which the adoption agency considers may assist the panel.

PART II

PARTICULARS RELATING TO EACH PARENT, INCLUDING WHERE APPROPRIATE, A FATHER OR MOTHER WHO DOES NOT HAVE PARENTAL RESPONSIBILITIES OR RIGHTS IN RELATION TO THE CHILD

1. Name, date and place of birth and address.

2. Marital status and date and place of marriage (if any).

3. Nationality and race.

4. Past and present relationship (if any) with other birth parent including an assessment of its stability.

5. Names, addresses and brief details of the personal circumstances of parents of the birth parents and any of the birth parents' brothers and sisters, with their ages or ages at death.

6. Physical description.

7. Personality.

8. Religion, including any wishes in respect of the child's religious upbringing which each parent has in respect of the child's adoption.

9. Educational attainments.

10. Past and present occupation.

11. Whether the mother, if she has parental responsibilities, agrees to the child being adopted and, if not, her reasons for not agreeing.

12. Whether the father, if he has parental responsibilities, agrees to the child being adopted and, if not, his reasons for not agreeing.

(1) 1980 c. 44.

13. If the father or mother does not have parental responsibilities in relation to the child whether he or she is intending to apply for, a parental responsibilities order or enter into a parental responsibilities agreement.

14. Whether there is any history of genetically transmissible or other significant disease in the family history of either the father's or mother's family.

15. A comprehensive medical report signed by a fully registered medical practitioner, including such details as the medical adviser to the adoption agency considers necessary in regard to each parent.

16. Any other relevant information which the adoption agency considers may assist the panel.

PART III

PARTICULARS RELATING TO A GUARDIAN

1. Particulars referred to in paragraphs 1-3, 6-10, 15 and 16 of Part II.
2. Whether the guardian agrees to the child being adopted, and if the guardian does not agree, his reasons for not agreeing.

PART IV

PARTICULARS RELATING TO EACH PROSPECTIVE ADOPTER

1. Name, date and place of birth.
2. Address.
3. Nationality and race.
4. Whether the proposed adopter has his home in Great Britain and, if not, the address at which he has his home, if different from 2 above.
5. Whether the proposed adopter is domiciled or habitually resident in the UK (ie England, Wales, Scotland, Northern Ireland) the Channel Islands or the Isle of Man, and, if not, the country in which he is domiciled or habitually resident. If habitually resident, for how long.
6. If the proposed adopter intends to apply for an order under section 49 of the Act, whether he intends to adopt the child in law or in fact in the country in which he is domiciled.
7. If there are two proposed adopters—
 - (a) the date and place of the proposed adopters' marriage;
 - (b) whether either proposed adopter has previously been married;
 - (c) if so, whether that marriage was dissolved or annulled;
 - (d) the grounds for the divorce or annulment;
 - (e) whether there are any financial commitments in respect of a former spouse and/or children of a previous marriage.
8. If there is only one proposed adopter, whether that person is married; if so why the spouse does not join in the application, and in particular whether the spouse:—
 - (a) cannot be found;
 - (b) is separated and living apart, and the separation is likely to be permanent; or

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(c) by reason of physical or mental ill-health is incapable of joining in the application.

9. Details of other members of the prospective adopter's household (including any children of the prospective adopter even if they are not resident in the household).

10. Details of the prospective adopter's parents and any of the prospective adopter's brothers or sisters, with their ages or ages at death.

11. Attitudes to adoption of such other members of the prospective adopter's household and of such of the other members of the prospective adopter's family as the adoption agency considers appropriate.

12. Personality.

13. Previous experience of caring for children and assessment of ability in this respect together, where appropriate, with assessment of ability in bringing up own children.

14. Whether the prospective adopter or any other adult member of the household has previously:—

- (a) notified a local authority of his intention to adopt a child;
- (b) applied to an adoption agency with a view to adopting a child;
- (c) had in his care and possession a foster child within the meaning of section 1 of the Foster Children (Scotland) Act 1984⁽²⁾ who has been removed under section 12 of that Act;
- (d) been disqualified or prohibited from keeping a foster child under section 7 or as the case may be section 10 of the Foster Children (Scotland) Act 1984 or disqualified or prohibited under section 68 or as the case may be section 69 of the Children Act 1989⁽³⁾ from fostering a child privately;
- (e) had in his care and possession a protected child who has been removed under section 34 of the Adoption Act 1976⁽⁴⁾;
- (f) been convicted of an offence mentioned in Schedule 1 to the Criminal Procedure (Scotland) Act 1995⁽⁵⁾ or of an offence under Schedule 1 to the Children and Young Persons Act 1933⁽⁶⁾;
- (g) had parental responsibilities and rights in respect of one or more of his own children transferred to a local authority under section 86 of the 1995 Act or had one or more of such children made subject to care orders under section 31 of the Children Act 1989⁽⁷⁾;
- (h) been refused registration as a child minder or worker in a nursery under the Children Act 1989,

and details of any such occurrence.

15. Assessment of ability to bring up an adopted child throughout his childhood.

16. Religious persuasion including the degree of his religious observance.

17. His ability to have regard to a child's religious persuasion, racial origin and cultural and linguistic background.

18. Educational attainments.

19. Past and present occupations and interests.

20. Details of financial circumstances and comments on the living standards of the household.

(2) 1984 c. 56.

(3) 1989 c. 41.

(4) 1976 c. 36.

(5) 1995 c. 21.

(6) 1933 c. 12.

(7) 1989 c. 41.

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- 21. Opinion of adoption agency as to whether any adoption allowance should be considered.
- 22. Reasons for wishing to adopt a child and extent of understanding of the nature and effect of adoption.
- 23. Names and address of two referees who are not close relatives who will give personal references on the prospective adopter.
- 24. Name and address of the prospective adopter’s registered medical practitioner.
- 25. A comprehensive medical report on the prospective adopter signed by a fully registered medical practitioner, including such details as the medical adviser to the adoption agency considers necessary in the circumstances of each prospective adopter.
- 26. Any other relevant information which the adoption agency considers may assist the panel.

SCHEDULE 3

Regulation 12(5)

FORM OF REFERENCE BY ADOPTION AGENCY TO PRINCIPAL REPORTER FOR ADVICE BY CHILDREN'S HEARING TO THE COURT

To the Principal Reporter

(Name of adoption agency) as an adoption agency has considered the case of (name and address of child) who is subject to a supervision requirement dated [] by a children’s hearing for (local authority area), and is satisfied for the reasons set out below that the best interests of (name of child) would be served by the agency [applying under section 18 of the Adoption (Scotland) Act 1978 for an order freeing (name of child) for adoption] [placing (name of child) for adoption]*; and the agency intends to [apply for such an order] [so place (name of child)]*.

The adoption agency has determined that the agreement of a parent to [adoption application under section 16] [freeing application under section 18]* of the Adoption (Scotland) Act 1978 is [likely] [unlikely]* to be forthcoming.

REASONS REFERRED TO

(insert reasons)

.....
(officer of adoption agency)
(place and date)

*Delete as appropriate

SCHEDULE 4

Regulation 14(1)(a)(i)

MEMORANDUM

ADOPTION OF CHILDREN

This memorandum is addressed to the parent or guardian of a child for whom an adoption application is to be made. This includes the father and mother of a child even though they do not have parental responsibilities or rights in relation to the child. If any part of this memorandum is not clear to you, you should consult the adoption agency (which may be a local authority social work department or voluntary society). You may seek advice from the adoption agency on any matter connected with the adoption of your child, and may also wish to consult your solicitors. This memorandum is intended for guidance only and is not to be regarded as an authoritative interpretation of the law.

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1. If the court makes an adoption order, your responsibilities and rights (including financial obligations) as a parent or guardian will be transferred to the adopters and they will become in law your child's parents. You will then have no further right to see your child, unless a condition about continuing contact is part of the adoption order or voluntary contact is agreed by the adopters. You will cease to be the child's parent and will have no right to have your child returned to you.

2. If you wish your child to be brought up in a particular religious faith you should inform the adoption agency. The adoption agency is obliged, however, to make the welfare of the child its paramount consideration. At your request, the adoption agency will be able to tell you if there are any adoption societies which specialise in arranging adoptions with families of a particular faith and it will be able to provide you with the appropriate names and addresses if you wish such a society to arrange for your child's adoption.

3. The adoption agency needs to know whether each of the child's parents or guardian agrees with its decision that the child should be adopted. If you are a parent and have parental responsibilities and rights in relation to the child, or are a guardian, you are asked to complete a certificate (Annex A enclosed) indicating whether you agree or disagree with the adoption agency's decision. Agreement is sought in relation to the adoption agency's decision, and is quite separate from the agreement required by a court (see paragraph 6) in any subsequent application. You should read the certificate carefully, complete Part A or Part B and return it to the adoption agency within 28 days of receipt. This should provide you with sufficient time to take legal advice should you wish to do so. If you agree with the adoption agency's decision, then the adoption agency will make arrangements to have your child adopted. If you do not agree with the adoption agency's decision or do not reply within the 28 days then the agency, if it decides to proceed, will make an application to the court to have the matter resolved – the timescales depend on your child's circumstances, and the adoption agency or your solicitor will be able to advise you of how long this will take. In the event of an adoption application not being possible or appropriate within the timescale required for an application to be made, the adoption agency will apply to the court for an order to have the child declared free for adoption without any further parental involvement. The adoption agency can provide you with further information on this order.

4. If you sign the form of agreement to the agency's decision and your child is subsequently placed with a person wishing to adopt him, then you will not be entitled to have your child returned to you if you change your mind, unless you obtain the permission of the court or the adoption agency. If you do change your mind you should inform the adoption agency at once.

5. Once your child is placed with adopters, they then have to apply to a court for an adoption order. Before making an order, the court will require to know whether you (except where you are a father or mother of the child who does not have parental responsibilities and rights) and any other parent or guardian of the child freely and in full understanding of what is involved, agree unconditionally to your child being adopted. The court will also have enquiries made to check that it will be in the best interests of your child that he should be adopted by the proposed adopters.

6. After the adoption application is made to the court, you will be asked to sign a form of agreement which can be shown to the court as evidence of your agreement. The proposed adopters will either be referred to on this form by a number or they will be named. If they are referred to by a number it will not be possible to tell you who they are. The adoption agency arranging the adoption will explain the reasons for this and will be glad to give you information about the personal circumstances and interests of the proposed adopters and to answer your questions about them as far as possible. Do not sign the form of agreement unless you are willing that your child should be adopted.

7. The court cannot make an adoption order without your agreement unless it dispenses with your agreement on certain grounds. The grounds on which a court can dispense with a parent's agreement are that he or she:-

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- (a) is not known, cannot be found, or is incapable of giving agreement;
- (b) is withholding agreement unreasonably;
- (c) has persistently failed, without reasonable cause, to fulfil one or other of the following parental responsibilities in relation to the child–
 - (i) the responsibility to safeguard and promote the child’s health, development and welfare; or
 - (ii) if the child is not living with him, the responsibility to maintain personal relations and direct contact with the child on a regular basis;
- (d) has seriously ill-treated the child, whose re-integration into the same household as the parent or guardian is, because of the serious ill-treatment, or for other reasons, unlikely.

8. You are not allowed to receive any money for giving your agreement.

9. When an adoption order is made, the Registrar General for Scotland makes an entry in the Adopted Children Register showing the adopters as the parents of your child. A full extract and an abbreviated certificate of the entry in that Register (which takes the place of your child’s original birth certificate) can be obtained by the adopters from General Register Office, New Register House, Edinburgh on payment of a fee. When your child reaches the age of 16, he will be entitled to see his original entry in the birth register and to purchase a certificate of entry if he so wishes. This means that when he is 16 he will be able to find out his original names as well as your name and your address when you registered his birth. Should you wish, the adoption agency will discuss with you the implications this may have for you in the future.

CERTIFICATE

TO: (name of Adoption Agency)

I hereby certify that I have received from you a memorandum headed “Adoption of Children” from which I have detached this certificate of acknowledgement and that I have read the memorandum and understood it.

Signature

Name

Address

.....

Date

SCHEDULE 5

Regulation 14(1)(a)(ii)

MEMORANDUM

FREEING OF CHILDREN FOR ADOPTION

This memorandum is addressed to the parent or guardian of a child where an application is to be made to the court requesting that the child be “freed for adoption”. This includes the father and mother of a child even though they do not have parental responsibilities or rights in relation to the child. If any part of this memorandum is not clear to you, you should consult the adoption agency. You may seek advice from the adoption agency on any matter connected with the adoption of your child, and you may also wish to consult your solicitor. This memorandum is intended for guidance only and is not to be regarded as an authoritative interpretation of the law.

1. If the court makes an order (called a “freeing order”):

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- your responsibilities and rights as a parent or guardian will be transferred to the adoption agency;
- the adoption agency will then proceed to make arrangements for the child to be placed for adoption as quickly as possible;
- you will no longer be required to contribute financially to the upkeep of your child;
- the person wishing to adopt your child will apply to the court in due course and the court, if on investigation considers that this is in your child's best interests, will make an adoption order without being required to consult you first.

2. If you wish your child to be brought up in a particular religious faith you should inform the adoption agency and it will take your wishes into account in selecting new parents for him as far as possible. The adoption agency is obliged, however, to make the welfare of the child its paramount consideration. At your request, the adoption agency will be able to tell you if there are any adoption societies which specialise in arranging adoptions with families of a particular faith and if so it will try to meet your wishes if you wish such a society to arrange for your child's adoption.

3. The adoption agency needs to know whether each of the child's parents or guardian agrees with its decision that the child should be freed for adoption. If you are a parent and have parental responsibilities and rights in relation to the child or are a guardian, you are asked to complete a certificate (Annex B enclosed) indicating whether you agree or disagree with the freeing application being made. Agreement is sought solely in relation to the adoption agency's decision and is quite separate from the agreement required by the court (see paragraph 5) in the subsequent freeing application. You should read the certificate carefully, complete Part A or Part B and return it to the adoption agency within 28 days of receipt. If you do not indicate your agreement within 28 days, the adoption agency will be obliged to make the freeing application to the court within a set timescale determined by the circumstances of your child – the adoption agency or your solicitor will be able to advise you on how long this will take. If you do agree, and the adoption agency places your child with a person wishing to adopt him, then you will not be entitled to have your child returned to you without permission of the court or the adoption agency if you change your mind. If you change your mind, you should inform the agency at once.

4. The adoption agency has to apply to a court for a freeing order. Before making an order, the court will require to know whether you (except where you are a father or mother of the child who does not have parental responsibilities and rights) and any other parent or guardian of the child freely and with full understanding of what is involved, agree unconditionally to your child being adopted. The court will also have enquiries made to check that it is in the best interests of the child for him to be freed for adoption.

5. After the freeing application is made to the court, you will be asked to sign a form of agreement which can be shown to the court as evidence of your agreement. Do not sign the form of agreement unless you are willing that the child should be adopted and you are also willing to give up your right to be party to the court proceedings when application is made for your child to be formally adopted in due course.

6. The court cannot make a freeing order without your agreement unless it dispenses with your agreement on certain grounds. The grounds on which a court can dispense with a parent's agreement are that he or she:–

- (a) is not known, cannot be found, or is incapable of giving agreement;
- (b) is withholding agreement unreasonably;
- (c) has persistently failed, without reasonable cause, to fulfil one of the following parental responsibilities in relation to the child–
 - (i) the responsibility to safeguard and promote the child's health, development and welfare; or

- (ii) if the child is not living with him, the responsibility to maintain personal relations and direct contact with the child on a regular basis;
 - (d) has seriously ill-treated the child, whose re-integration into the same household as the parent or guardian is, because of the serious ill-treatment, or for other reasons, unlikely.
7. You are not allowed to receive any money for giving your agreement.

Declaration by a relevant parent

8. You will also be asked to decide whether you wish to be involved in any future questions concerning your child's adoption. If you decide that you do not, the adoption agency will ask you to sign a form declaring this. The form, called a "Declaration by a Relevant Parent", will then be given to the court, so that your wishes will be recorded by the court when the freeing order is made. If you make a "Declaration" you will not be given any more information after the freeing order is granted, and you will not be advised of any outcome of any adoption application. Where you have made a Declaration and subsequently change your mind, you may receive information about your child if you advise the adoption agency in writing.

Your rights if you do not sign a "Declaration"

9. If you do not sign a "Declaration", you have the right to be informed about future developments in relation to your child. It is likely that the adoption agency will tell you as soon as an adoption order is made. The adoption agency must write to you within one year and 2 weeks after the freeing order has been made, to tell you what has happened to your child – whether he has been adopted (if you have not already been told of this) or has been placed for adoption but not yet adopted or is still waiting to be placed with adopters. Thereafter the adoption agency has a duty to continue to notify you of any changes in your child's placement until he is adopted.

10. If the adoption agency has not been able to place your child with adopters within the 12 month period, you have the right to ask the court to revoke the freeing order. The adoption agency can also make such an application anytime after the freeing order is made. If the court agrees to do this as being in the best interests of your child, the responsibilities and rights of a parent are awarded to whoever the court considers most appropriate. Any duties relating to payments towards your child's maintenance which were extinguished by the freeing order will be automatically revived on the date when the court revokes that order. During the period when the court is considering your application the adoption agency will not be able to place your child for adoption without the court's permission.

11. If the court does not believe it to be in your child's interests for the freeing order to be revoked, you will not be able to make any further application for revocation unless the court permits this because of a change in circumstances or for any other reason. In such circumstances the adoption agency will continue with its arrangements to find an adoptive home for the child and will not be required to provide you with any further information about his progress or situation.

Birth records

12. When an adoption order is made, the Registrar General for Scotland makes an entry in the Adopted Children Register showing the adopters as the parents of the child. A full extract and an abbreviated certificate of the entry in that Register (which takes the place of the child's original birth certificate) can be obtained by the adopters from General Register Office, New Register House, Edinburgh on payment of a fee. Where the child reaches the age of 16, he will be entitled to see his original entry in the birth register and to purchase a certificate of that entry if he so wishes. This means that when he is 16 he will be able to find out his original names as well as your name and your address when you registered his birth. Should you wish, the adoption agency will discuss with you the possible implications this may have for you in the future.

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CERTIFICATE

TO: (name of Adoption Agency)

I hereby certify that I have received from you a memorandum headed "Freeing of Children for Adoption" from which I have detached this certificate of acknowledgement and that I have read the memorandum and understood it.

Signature

Name

Address

.....

Date

SCHEDULE 6

Regulation 14(1)(d)

ANNEX APARENT'S AGREEMENT IN RESPECT OF PLACEMENT OF CHILD FOR ADOPTION

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

I

living at

am the mother/father of

who was born on

***A.** Agree to my child being placed for adoption and I understand that:

- (a) my child will go to live with adopters as that is in his interests;
- (b) as a consequence of giving any agreement, I will not be entitled to remove my child from the adopters without the permission of the adoption agency or the court; and
- (c) when the court considers an adoption application, it will seek my agreement to the making of an adoption order.

***B.** Do not agree to my child being placed for adoption and I understand that:

- (a) should the adoption agency wish to continue with their plan to have my child adopted, they must make a freeing application to the court within set timescales (unless an adoption application has already been made) to have the matter determined;
- (b) in the event of an application for an adoption or freeing order being made, the court will seek my agreement to the making of the order.

Signature:

Date:

***Delete as appropriate.**

NOTE:

You should delete either A or B and sign both copies of this form. You should keep one of them yourself in a safe place, and the other one will be kept by the agency. If you change your mind and decide against adoption, you should tell your social worker and your solicitor immediately. Once your child has gone to live with adopters the length of time she or he lives with them may influence the court's decision as to whether it is in your child's best interests to stay there. If you have not already consulted a solicitor you are advised to do so. You should show this document to your solicitor and anyone else advising you.

SCHEDULE 7

Regulation 14(1)(d)

ANNEX B PARENT'S AGREEMENT IN RESPECT OF AN APPLICATION TO FREE A CHILD FOR ADOPTION

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

I

living at

am the mother/father of

who was born on

*A. Agree to my child being the subject of an application under section 18 of the Adoption (Scotland) Act 1978 to have him freed for adoption and for his placement with adopters. I understand that:

- (a) my child will go to live with adopters before the freeing application is made if that is in his interests;
- (b) as a consequence of giving any agreement, I will not be entitled to remove my child from the adopters without the permission of the adoption agency or the court; and
- (c) when the court considers the freeing application, it will seek my agreement to the making of the freeing order.

*B. Do not agree to my child being the subject of an application under section 18 of the Adoption (Scotland) Act 1978 to have him freed for adoption. I understand that:

- (a) should the adoption agency wish to continue with their plan to have my child adopted, they must make a freeing application to the court within set timescales (unless an adoption application has already been made) to have the matter determined;
- (b) in the event of an application for an adoption or freeing order being made, the court will seek my agreement to the making of the order.

Signature: _____

Date: _____

*Delete as appropriate.

NOTE:

You should delete either A or B and sign both copies of this form. You should keep one of them yourself in a safe place, and the other one will be kept by the agency. If you change your mind and decide against adoption, you should tell your social worker and your solicitor immediately. Once your child has gone to live with adopters the length of time she or he lives with them may influence the court's decision as to whether it is in your child's best interests to stay there. If you have not already consulted a solicitor you are advised to do so. You should show this document to your solicitor and anyone else advising you.