
STATUTORY INSTRUMENTS

1997 No. 291

Act of Sederunt (Child Care and Maintenance Rules) 1997

CHAPTER 2

ADOPTION OF CHILDREN

PART III

REVOCAION ORDERS, ETC.

Application for revocation

2.15.—(1) An application under section 20(1) of the Act⁽¹⁾ for revocation of an order freeing a child for adoption shall be made by minute in Form 8 in the process of the original application and shall specify detailed proposals for the future well-being of the child.

(2) On the lodging of a minute under paragraph (1), the sheriff shall order the applicant to intimate the minute to the petitioner in the original application and to such other person as shall to the sheriff seem appropriate.

(3) Any person to whom intimation has been made under paragraph (2) may, within 14 days after the date on which intimation is made, lodge answers to the minute.

Appointment of curator *ad litem*

2.16.—(1) On the lodging of a minute under rule 2.15(1), the sheriff may appoint a curator *ad litem* who shall have regard to the welfare of the child as his paramount duty and shall further—

- (a) investigate the facts contained in the minute;
- (b) investigate the circumstances and care of the child with regard to the promotion of his welfare throughout his life; and
- (c) ascertain from the child whether he wishes to express a view and where a child indicates his wish to express a view, ascertain that view,

and, subject to paragraph (2), shall report in writing thereon to the sheriff within 4 weeks from the date of the interlocutor appointing the curator, or within such other period as the sheriff in his discretion may allow.

(2) Subject to any order made by the sheriff under rule 2.17(1)(a), the views of the child ascertained in terms of paragraph (1)(c) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

Procedure where child wishes to express a view

2.17.—(1) Where a child has indicated his wish to express his views the sheriff, without prejudice to rule 2.16(1)(c)—

(1) Section 20 was amended by the Children (Scotland) Act 1995, Schedule 2, paragraph 13.

- (a) may order such procedural steps to be taken as he considers appropriate to ascertain the views of that child; and
 - (b) shall not make an order under this Part unless an opportunity has been given for the views of that child to be obtained or heard.
- (2) Where the views of a child, whether obtained under this rule or under rule 2.16(1)(c), have been recorded in writing, the sheriff may direct that such a written record shall—
- (a) be sealed in an envelope marked “Views of the child – confidential”;
 - (b) be available to a sheriff only;
 - (c) not be opened by any person other than a sheriff; and
 - (d) not form a borrowable part of the process.

Hearing

2.18.—(1) Where answers have been lodged under rule 2.15(3), the sheriff shall order a diet of hearing to be fixed.

(2) Where no answers to the minute under rule 2.15(1) have been lodged the sheriff may—

- (a) order the relevant adoption agency to submit a report to him;
- (b) order a diet of hearing to be fixed; or
- (c) order both such a report and such a diet of hearing.

(3) An order made under this Part shall specify the person—

- (a) to whom parental rights are given in consequence of the making of the order; and
 - (b) on whom parental responsibilities are imposed in consequence of the making of the order,
- and intimation shall be given to such a person on the making of such an order.

Application to place a child

2.19.—(1) An application by an adoption agency under section 20(2) of the Act (leave of court to place a child) shall be made by minute in Form 9 in the original process.

(2) A minute under paragraph (1) shall be intimated by the applicant to such persons as shall to the sheriff seem appropriate.

Further application with leave of the court

2.20 A further application made with leave of the sheriff in terms of section 20(5) of the Act (further application by former parent with leave of the court) shall be made by minute in Form 10 in the original process and the provisions of rules 2.15(2) and (3), 2.16 and 2.17 shall apply to such a further application.