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STATUTORY INSTRUMENTS

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**1997 No. 291**

**Act of Sederunt (Child Care and Maintenance Rules) 1997**

**CHAPTER 2**

**ADOPTION OF CHILDREN**

**PART II**

**APPLICATION FOR AN ORDER DECLARING A CHILD FREE FOR ADOPTION**

**Duties of reporting officer and curator *ad litem***

- 2.8.—**(1) A reporting officer appointed under this Part shall—
- (a) witness any consent to the making of an application for an order freeing a child for adoption executed within the United Kingdom by a parent or guardian of the child and shall lodge the consent in process;
  - (b) witness any agreement executed within the United Kingdom by a parent or guardian of a child to the making of an adoption order in respect of the child and lodge the agreement in process;
  - (c) ascertain that each parent or guardian who can be found understands that the effect of an adoption order would be to extinguish his parental responsibilities and rights;
  - (d) ascertain from any parent or guardian who can be found, whether alternatives to adoption have been discussed with him;
  - (e) ascertain whether there is any person other than those mentioned in the petition upon whom notice of the petition should be served;
  - (f) ascertain whether the child is subject to a supervision requirement;
  - (g) confirm that each parent or guardian who can be found understands the implications of an order freeing the child for adoption;
  - (h) confirm that each parent or guardian who has given his agreement and can be found understands that he may withdraw his agreement at any time before an order under section 18(1) of the Act is made;
  - (i) confirm that each parent or guardian who can be found is aware that he may in the circumstances set forth in section 20 of the Act (revocation of section 18 order) apply to the court for revocation of any order under section 18(1) of the Act and of the appropriate procedure for such an application;
  - (j) confirm that each parent or guardian who can be found has been given an opportunity to make a declaration in terms of section 18(6) of the Act and, where the parent or guardian elects to make such declaration, shall comply with rule 2.10; and
  - (k) in the case of a child whose father is not married to the mother, consider the likelihood of any person claiming to be the father of the child—

- (i) applying for or being refused an order under section 11 of the 1995 Act (court orders relating to parental responsibilities); or
- (ii) entering into an agreement in terms of section 4(1) of that Act (agreement as to parental responsibilities and rights),

and shall report in writing thereon to the sheriff within 4 weeks from the date of the interlocutor appointing the reporting officer, or within such other period as the sheriff in his discretion may allow.

(2) A curator *ad litem* appointed under this Part shall have regard to the welfare of the child as his paramount duty and shall further—

- (a) generally safeguard the interests of the child who is the subject of the petition and ensure that consideration has been given to the interests of the child for the purposes of section 6 of the Act (duty to promote welfare of child)(1);
- (b) ascertain whether the facts stated in the petition are correct except where investigation of such facts falls within the duties of the reporting officer;
- (c) where the child who is sought to be freed for adoption is over the age of 12 years, witness any consent to the order executed by him in the United Kingdom and lodge the consent in process;
- (d) 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;
- (e) ascertain whether an order freeing the child for adoption would safeguard and throughout his life promote the welfare of the child;
- (f) ascertain whether it would be better for the child that the court should make the order than it should not make such order; and
- (g) report on the current circumstances and care of the child,

and, subject to paragraph (3), 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.

(3) Subject to any order made by the sheriff under rule 2.9(1)(a), the views of the child ascertained in terms of paragraph (2)(d) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

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(1) Section 6 was substituted by the Children (Scotland) Act 1995, section 95.