
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under the Adoption and Children (Scotland) Act 2007, make provision: in Part 2 concerning the disclosure by adoption agencies of information relating to adoptions; and in Part 3 concerning the disclosure of information about the health of the natural parents of a child who is to be, may be or has been adopted.

Regulation 3 provides for disclosure of information to adopted persons. Where the adopted person is under the age of 16 (or 18 if in England or Wales) the adoption agency must, prior to disclosing information, consider the adopted person's views and welfare and the views of the adoptive parents. However, the agency must not disclose to an adopted person under the age of 16 (or 18 in England or Wales) any information which could identify the adopted person's natural parents.

Regulation 4 provides for disclosure of information to local authorities in Scotland, England and Wales, and to the Registrar General for England and Wales, where an adopted person is applying for adoption support services or seeking information about their adoption. An adoption agency may disclose information for the purposes of carrying out its functions or to researchers authorised by the Scottish Ministers (regulation 5). Regulation 6 describes persons which an agency must disclose information to, and these include those holding certain inquiries, the Scottish Ministers, the Scottish Public Services Ombudsman, the Scottish Commission for the Regulation of Care, persons authorised under the Adoption Agencies (Scotland) Regulations 2009 and courts. When an agency discloses information under regulations 5 and 6 it must keep a record of the disclosure and the reasons for it (regulation 7). Regulation 8 provides for the transfer of adoption case records, including where adoption agencies dissolve or merge.

Regulation 9 provides that Part 3 applies subject to Part 2 and to the Adoption Agencies (Scotland) Regulations 2009.

Regulation 10 provides that neither the child who is to be, may be or has been adopted, nor the adoptive parents of that child, have an automatic right to access medical information concerning that child's natural parents.

Regulation 11 provides that where an adoption agency has been unable to obtain information about transmissible genetic, or other significant, disease in the family history of the child's natural parents, a GP holding such information must disclose it to the adoption agency on request. That information is then held on the case record relating to the child. Any information disclosed by the GP must be treated, by the adoption agency, as confidential.