

SCHEDULE

SHERIFF COURT ADOPTION RULES 2009

CHAPTER 2

ADOPTION ORDERS

Application for adoption order

8.—(1) An application for an adoption order under section 29 (adoption by certain couples) or 30 (adoption by one person) of the 2007 Act is to be made by petition in Form 1.

(2) An application for an order vesting parental responsibilities and parental rights relating to a child under section 59(1) of the 2007 Act (preliminary order where child to be adopted abroad) is to be made by petition in Form 2.

(3) The following documents must be lodged in process along with a petition under paragraph (1) or (2):—

- (a) an extract of the entry in the Register of Births relating to the child who is the subject of the application;
- (b) in the case of an application under section 29 of the 2007 Act by a relevant couple who are married to each other, an extract or a certified copy of the entry in the Register of Marriages relating to their marriage;
- (c) in the case of an application under section 29 of the 2007 Act by a relevant couple who are civil partners of each other, an extract or a certified copy of the entry in the Register of Civil Partnerships relating to their civil partnership;
- (d) any report by the local authority required by section 19(2) (investigation by local authority on receipt of notice of intention to apply for adoption order) of the 2007 Act, if available;
- (e) any report by an adoption agency required by section 17 (report on the suitability of the applicants and other matters) of the 2007 Act, if available;
- (f) where appropriate, an extract of the order freeing the child for adoption;
- (g) where appropriate, an extract of the permanence order made in respect of the child under section 80 of the 2007 Act;
- (h) where appropriate, the consent under section 19(1) (placing children with parental consent: England and Wales) of the 2002 Act of each parent or guardian to the child being placed for adoption, in the form prescribed under section 52(7) of that Act, if available;
- (i) where appropriate, the consent under section 20(1) (advance consent to adoption: England and Wales) of the 2002 Act of each parent or guardian to the making of a future adoption order, in the form prescribed under section 52(7) of that Act, if available;
- (j) any notice given under section 20(4) (notice that information about application for adoption order not required: England and Wales) of the 2002 Act by a parent or guardian of the child to an adoption agency, if available;
- (k) a certified copy of any placement order made under section 21(1) (placement orders: England and Wales) of the 2002 Act, if available; and
- (l) any other document founded upon by the petitioner in support of the terms of the petition.

(4) A report by a local authority under section 19(2) or an adoption agency under section 17 of the 2007 Act must be in numbered paragraphs and include the following matters:—

- (a) information about how the needs of the child came to the notice of the authority or agency;

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- (b) the family circumstances of the child;
- (c) where the child was placed for adoption by an adoption agency, a description of the physical and mental health of the child (including any special needs) and his emotional, behavioural and educational development;
- (d) an account of the discussion with the parents or guardians of the child and, if appropriate, with the child about their wishes and the alternatives to adoption;
- (e) the position of other relatives or persons likely to be involved;
- (f) an account of any search for a parent or guardian who cannot be found;
- (g) information about the mutual suitability of the petitioner and the child for the relationship created by adoption and the ability of the petitioner to bring up the child including an assessment of the personality of the petitioner and, where appropriate, that of the child;
- (h) particulars of all members of the household of the petitioner and their relationship to the petitioner;
- (i) a description of the accommodation in the home of the petitioner;
- (j) in a petition by only one member of a relevant couple within the meaning of section 29(3) of the 2007 Act, why the other member of that couple has not joined in the application;
- (k) whether the petitioner understands the nature and effect of an adoption order and in particular that the order, if made, will make the petitioner responsible for the maintenance and upbringing of the child;
- (l) whether the means and standing of the petitioner are such as to enable him to maintain and bring up the child suitably;
- (m) whether the child has any right or interest in property and, if so, what right or interest;
- (n) whether any payment or other reward in consideration of the adoption, other than an approved adoption allowance, has been received or agreed upon;
- (o) what insurance has been offered on the life of the child;
- (p) the religious persuasion, racial origin and cultural and linguistic background of the child and of the petitioner;
- (q) consideration arising from the difference in age between the petitioner and the child if this is more or less than the normal difference in age between parents and children;
- (r) whether adoption is likely to safeguard and promote the welfare of the child throughout his life;
- (s) whether the child is subject to a supervision requirement and, if so, what steps have been taken to comply with section 73(4)(c), (5) and (13) (duration and review of supervision requirement) of the 1995 Act;
- (t) where paragraph (5) applies, the information mentioned in paragraph (6);
- (u) whether there has been a contravention of section 75 of the 2007 Act in relation to the child;
- (v) whether there has been a failure to comply with section 76(2) of the 2007 Act in relation to the child;
- (w) any other matters relevant to the operation of section 14 of the 2007 Act in relation to the application;
- (x) where appropriate, information about whether—
 - (i) in an application under section 29(1) of the 2007 Act, the petitioners are a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act; or
 - (ii) in an application under section 30(1) of the 2007 Act, the petitioner is a member of a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act;

- (y) in the case of a petition under paragraph (2) to which regulation 50 of the 2009 Regulations applies, the details referred to in paragraph (7);
 - (z) any other information which may be of assistance to the court.
- (5) This paragraph applies where—
- (a) the child was placed for adoption under section 19(1) (placement with parental consent: England and Wales) of the 2002 Act;
 - (b) the child was placed for adoption under a placement order made under section 21(1) (placement orders: England and Wales) of the 2002 Act; or
 - (c) each parent or guardian has consented under section 20(1) (advance consent to adoption: England and Wales) of the 2002 Act to the making of a future adoption order.
- (6) The information referred to in paragraph (4)(t) is any available information about whether—
- (a) any placement order has been revoked;
 - (b) any of the consents referred to in section 31(8) or (9) of the 2007 Act have at any time been withdrawn;
 - (c) a parent or guardian of the child wishes to seek leave to oppose the petition; and
 - (d) there has been any change of circumstances since the consent of the parent or guardian was given or, as the case may be, the order under section 21(1) (placement orders: England and Wales) of the 2002 Act was made.
- (7) The details mentioned in paragraph (4)(y) are—
- (a) details of any reviews carried out under regulation 10 of the Adoption Agencies (Scotland) Regulations 2009(1); and
 - (b) details of any visits carried out under regulation 25(1)(a) of those Regulations.
- (8) If a report mentioned in paragraph (3)(d) or (e) is unavailable to be lodged along with the petition, the sheriff shall pronounce an interlocutor requiring the adoption agency or local authority concerned to prepare and lodge such a report within 2 weeks from the date of the interlocutor, or within such other period as the sheriff in his discretion may allow.
- (9) If any of the documents required to be lodged in process under paragraph (3)(f), (g), (h), (i), (j) or (k) is unavailable to be lodged by reason of its being in the possession of an adoption agency, the sheriff shall pronounce an interlocutor requiring the agency to lodge the document within 4 weeks from the date of the interlocutor, or within such other period as the sheriff in his discretion may allow.
- (10) A petition under this rule must include a crave for warrant for intimation to the persons mentioned in rule 14(1)(b) to (d) as appropriate.