



Adoption (Scotland) Act 1978

1978 CHAPTER 28

PART V

REGISTRATION AND REVOCATION OF ADOPTION ORDERS AND CONVENTION ADOPTIONS

45 Adopted Children Register.

- (1) The Registrar General for Scotland shall maintain at the General Register Office a register, to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.
- (2) An extract of any entry in the Adopted Children Register maintained under this section, if purporting to be sealed or stamped with the seal of the General Register Office, shall, without any further or other proof of that entry, be received as evidence of the adoption to which it relates and, where the entry contains a record of the date of the birth or the country of the birth of the adopted person, shall also be received as aforesaid as evidence of that date or country.
- (3) The Registrar General for Scotland shall cause an index of the Adopted Children Register maintained under this section to be made and kept in the General Register Office; and the Registrar General for Scotland shall—
 - (a) cause a search to be made of that index on behalf of any person or permit that person to search the index himself, and
 - (b) issue to any person an extract of any entry in that register which that person may require,

in all respects upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Registration of Births, Deaths and Marriages (Scotland) Act 1965 in respect of searches in other indexes kept in the General Register Office and in respect of the supply from that office of extracts of entries in the registers of births, deaths and marriages.

- (4) The Registrar General for Scotland shall, in addition to the Adopted Children Register and the index thereto, keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection between any

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entry in the register of births which has been marked “Adopted” pursuant to paragraph 1 of Schedule 1 or any enactment at the time in force and any corresponding entry in the Adopted Children Register maintained under this section.

- (5) The registers and books kept under subsection (4) shall not be, nor shall any index thereof be, open to public inspection or search, nor, except under an order of the Court of Session or a sheriff, shall, the Registrar General for Scotland furnish any information contained in or any copy or extract from any such registers or books to any person other than an adopted person who has attained the age of 17 years and to whom that information, copy or extract relates or a local authority [F1]Board or adoption society falling within subsection (6) which is providing counselling for that adopted person.
- (6) Where the Registrar General for Scotland furnishes an adopted person with information under subsection (5), he shall advise that person that counselling services are available—
- (a) if the person is in Scotland—
 - (i) from the local authority in whose area he is living;
 - (ii) where the adoption order relating to him was made in Scotland, from the local authority in whose area the court which made the order sat; or
 - (iii) from any other local authority in Scotland;
 - (b) if the person is in England and Wales—
 - (i) from the local authority in whose area he is living;
 - (ii) where the adoption order relating to him was made in England and Wales, from the local authority in whose area the court which made the order sat; or
 - (iii) from any other local authority in England and Wales;
 - (c) if the person is in Northern Ireland—
 - (i) from the Board in whose area he is living;
 - (ii) where the adoption order relating to him was made in Northern Ireland, from the Board in whose area the court which made the order sat; or
 - (iii) from any other Board;
 - (d) if the person is in the United Kingdom and his adoption was arranged by an adoption society—
 - (i) approved under section 3;
 - (ii) approved under section 3 of the Adoption Act 1976; or
 - (iii) registered under Article 4 of the Adoption (Northern Ireland) Order 1987,
 from that society.
- (6A) Where an adopted person who is in Scotland—
- (a) is furnished with information under subsection (5); or
 - (b) applies for information under—
 - (i) section 51(1) of the Adoption Act 1976; or
 - (ii) Article 54 of the Adoption (Northern Ireland) Order 1987,
 any body mentioned in subsection (6B) to which the adopted person applies for counselling shall have a duty to provide counselling for him.
- (6B) The bodies referred to in subsection (6A) are—

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- (a) any local authority falling within subsection (6)(a); and
- (b) any adoption society falling within subsection (6)(d) so far as it is acting as an adoption society in Scotland.]
- (7) Where an adopted person has arranged to receive counselling [^{F2}from a local authority Board or adoption society falling within] subsection (6), the Registrar General for Scotland shall, on receipt of a request from the local authority [^{F3}, Board or adoption society], and on payment of the appropriate fee, send to the authority [^{F4}, Board] or society an extract of the entry relating to the adopted person in the register of births.
- (8) The provisions of the ^{M1}Registration of Births, Deaths and Marriages (Scotland) Act 1965 with regard to the correction of errors in entries shall apply to the Adopted Children Register maintained by the Registrar General for Scotland and to registration therein in like manner as they apply to any register of births and to registration therein.
- (9) Schedule 1 to this Act, which, among other things, provides for the registration of adoptions and the amendment of adoption orders, shall have effect.

[^{F5}(10) In this section—

“Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) ^{M2}Order 1972; and

“local authority”, in relation to England and Wales, means the council of a county (other than a metropolitan county), a metropolitan district, a London borough or the Common Council of the City of London.]

Textual Amendments

- F1** S. 45(6)(6A)(6B) and preceding words substituted (14.10.1991) for s. 45(6) and preceding words by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 41(a)**, (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** Words in s. 45(7) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 41(b)(i)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F3** Words in s. 45(7) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 41(b)(ii)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F4** Word in s. 45(7) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 88, 108, **Sch. 10 para. 41(b)(iii)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F5** s. 45(10) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **s. 88**, 108, Sch. 10 para. 41(c) (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Marginal Citations

- M1** 1965 c. 49.
- M2** S.I. 1972/1265 (N.I. 14).

46 Revocation of adoptions on legitimation.

- (1) Where the natural parents of [^{F6}a] child, one of whom has adopted him in Scotland, have subsequently married each other, the court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.
- (2) Where a person adopted by his father or mother alone by virtue of a regulated adoption has subsequently become a legitimated person on the marriage of his father and

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mother, the Court of Session may, upon an application under this subsection by the parties concerned, by order revoke the adoption.

Textual Amendments

F6 Word substituted by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 10(1), 11(4), [Sch. 1 para. 18\(3\)](#)

47 Annulment etc. of overseas adoptions.

- (1) The Court of Session may, upon an application under this subsection, by order annul a regulated adoption or an adoption effected by a Convention adoption order—
 - (a) on the ground that at the relevant time the adoption was prohibited by a notified provision, if under the internal law then in force in the country of which the adopter was then a national or the adopters were then nationals the adoption could have been impugned on that ground;
 - (b) on the ground that at the relevant time the adoption contravened provisions relating to consents of the internal law relating to adoption of the country of which the adopted person was then a national, if under that law the adoption could have been impugned on that ground;
 - (c) on any other ground on which the adoption can be impugned under the law for the time being in force in the country in which the adoption was effected.
- (2) The Court of Session may, upon an application under this subsection—
 - (a) order that an overseas adoption or a determination shall cease to be valid in Great Britain on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case;
 - (b) decide the extent, if any, to which a determination has been affected by a subsequent determination.
- (3) Any court in Great Britain may, in any proceedings in that court, decide that an overseas adoption or a determination shall, for the purposes of those proceedings, be treated as invalid in Great Britain on either of the grounds mentioned in subsection (2).
- (4) An order or decision of the High Court on an application under subsection (2) of section 53 of the ^{M3}Adoption Act 1976 shall be recognised and have effect as if it were an order or decision of the Court of Session on an application under subsection (2) of this section.
- (5) Except as provided by this section and section 46(2) the validity of an overseas adoption or a determination shall not be impugned in Scotland in proceedings in any court.

Marginal Citations

M3 1976 c. 36.

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48 Provisions supplementary to ss. 46(2) and 47.

- (1) Any application for an order under section 46(2) or 47 or a decision under section 47(2) (b) shall be made in the prescribed manner and within such period, if any, as may be prescribed.
- (2) No application shall be made under section 46(2) or 47(1) in respect of an adoption unless immediately before the application is made the person adopted or the adopter habitually resides in Scotland or, as the case may be, both adopters habitually reside there.
- (3) In deciding in pursuance of section 47 whether such an authority as is mentioned in section 53 was competent to entertain a particular case, a court shall be bound by any finding of fact made by the authority and stated by the authority to be so made for the purpose of determining whether the authority was competent to entertain the case.
- (4) In section 47—
 - “determination” means such a determination as is mentioned in section 53;
 - “notified provision” means a provision specified in an order of the Secretary of State as one in respect of which a notification to or by the Government of the United Kingdom was in force at the relevant time in pursuance of the provisions of the Convention relating to prohibitions contained in the national law of the adopter; and
 - “relevant time” means the time when the adoption in question purported to take effect under the law of the country in which it purports to have been effected.

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