STATUTORY INSTRUMENTS

1977 No. 977 (S.73)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Sheriff Court, Adoption of Children Amendment) 1977

Made - - - -	31*st May* 1977
Coming into Operation	21*st June* 1977

The Lords of Council and Session, considering that it is necessary to regulate proceedings in applications in the Sheriff Court under the Adoption Acts 1958 to 1964**(a)** and Children Act 1975**(b)** under and by virtue of the powers conferred on them by section 11 of the Adoption Act 1958 as amended by paragraph 23 of Schedule 3 of the Children Act 1975 and by section 32 of the Sheriff Courts (Scotland) Act 1971**(c)** and of all other powers competent to them in that behalf do hereby enact and declare:—

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court, Adoption of Children Amendment) 1977 and shall come into operation on 21st June 1977.

(2) The Act of Sederunt (Adoption of Children) 1959**(d)** and the Appendix thereto, as amended by Act of Sederunt (Adoption of Children) (Amendment) 1960**(e)** by Act of Sederunt (Adoption of Children Amendment) 1966**(f)** and by Act of Sederunt (Adoption of Children Amendment) 1971**(g)** is hereinafter referred to as the "principal Act of Sederunt".

(3) The Interpretation Act 1889**(h)** shall apply for the interpretation of this Act of Sederunt as it applies for the interpretation of an Act of Parliament.

Consequential amendments—interpretation

2. In the principal Act of Sederunt—

(*a*) the following words in the preamble shall be deleted:—
"(hereinafter referred to as the 'Act')"

(*b*) the following paragraph shall be inserted immediately after the preamble:—"A. In this Act of Sederunt a reference to the 'Act of 1958' means the Adoption Act 1958 as amended, and a reference to the 'Act of 1975' means the Children Act 1975."

Consequential amendments—general

3. In the principal Act of Sederunt—

(*a*) for references to an infant there shall be substituted references to a child;

(a) 7 & 8 Eliz. 2 c. 5; 1960 c. 59; 1964 c. 57.
(b) 1975 c. 72.
(c) 1971 c. 58.
(d) S.I. 1959/763 (1959 I, p. 649).
(e) S.I. 1960/987 (1960 I, p. 525).
(f) S.I. 1966/1621 (1966 III, p. 5063).
(g) S.I. 1971/1163 (1971 II, p. 3422).
(h) 1889 c. 63.

(*b*) references to a parent shall be construed as including references to a guardian.

Consequential amendments—specific

4. In the paragraphs and Forms contained in the principal act of Sederunt as respectively specified in column 1 of the table set out below, for the words specified in column 2 of the table opposite those paragraphs and Forms respectively, there shall be substituted the words specified in column 3 of the table opposite those words.

TABLE

Column 1	*Column 2*	*Column 3*
1 (*a*)	All consents required under section 4 of the Act	All consents required under section 8(6) and agreements required under section 12 of the Act of 1975
	Section 6 of the Act	Section 6 of the Act of 1958
	Such consents	Such consents and agreements
1 (*b*)	Act	Act of 1958
4	consent	agreement
5	consenting party	person giving the agreement
	consent	agreement
	Act	Act of 1958
6	Act	Act of 1958
6 (*a*)	consent	agreement
6 (*b*)	is consistent with the welfare of the infant	is likely to safeguard and promote the welfare of the child throughout his childhood
6 (*p*)	Such other questions or matters, including an assessment of the petitioner's personality and, where appropriate, that of the infant, as having a bearing on the mutual suitability of the petitioner and the infant for the relationship created by adoption, and on the ability of the petitioner to bring up the infant	Such other questions or matters, including an assessment of the petitioner's personality and, where appropriate, that of the child, as having a bearing on the mutual suitability of the petitioner and the child for the relationship created by adoption, and on the ability of the petitioner to bring up the child;
		(*q*) The ascertainment, so far as practicable, of the wishes and feelings of the child, regarding the proposed adoption
7	Children's Officer	Director of Social Work
8 (*a*)	consent	consent and agreement
	subsection 1 of section 4 of the Act	section 8(6) or section 12(1) of the Act of 1975

Column 1	*Column 2*	*Column 3*
8 (*b*)	parent of the infant	parent of the child, or having the custody or care of the child, or in the case of a local authority, having the child committed to their care
	section 75 of the Children and Young Persons Act 1933, or paragraph 12(1) of the Fourth Schedule to that Act	section 24 of the Children and Young Persons Act 1969
	Children Act 1948	Children Act 1948 as amended
	section 79 of the Children and Young Persons (Scotland) Act 1937 or paragraph 12(1) of the Second Schedule to that Act	section 16 and 17 of the Social Work (Scotland) Act 1968 as amended
	sections 5 or 10	section 10
	1958	1958, or section 43 of the Matrimonial Causes Act 1973, or section 5 of the Guardianship of Infants Act 1886 or section 9 of the Guardianship of Minors Act 1971 or sections 2(2)(*b*) and 11(1)(*a*) of the Guardianship Act 1973
8 (*d*)	Act	Act of 1958
8 (*e*)	form of consent	form of agreement or consent
14	Act	Act of 1958
	in a pre-paid registered postal envelope	by recorded delivery post in an envelope
15	(ii)	(ii)(*a*) by or to the Clerk of Court on the written application to him by a local authority or registered adoption society with the agreement of the adopted person for the purpose of ascertaining the name of the agency, if any, responsible for the placement of that person, and informing the applicant of that name;
		(*b*)
16	No extract of an Adoption Order shall be issued except by the authority of the Court by whom the Order was pronounced, obtained by petition setting forth the reasons for which the extract is required	A. An Adoption Order pronounced by the Court shall include the name and address of the adoption agency, if any, which has taken part in the arrangements for placing the child in the care of the petitioner
		B. No extract of an Adoption Order shall be issued except by the authority of the Court by whom the Order was pronounced, obtained by petition setting forth the reasons for which the extract is required

Column 1	*Column 2*	*Column 3*
17 (*a*)	subsection 1 of section 26 of the Act	section 26 (1A) of the Act of 1958
17 (*a*) & (*b*)	Act	Act of 1958
17 (*b*)	section 34 of the Act for leave to remove the infant from the care and possession of the petitioner	section 34 of the Act of 1958 for leave to remove the child from the custody of the person with whom the child has his home, and any application under section 34A of the said Act for leave to remove the child from the applicant's custody, and any application under section 30 of the Act of 1975 for return of the child or prohibiting removal of child pending Adoption Order
Form A Paragraph 1 and Crave	Adoption Act 1948	Adoption Acts 1958 to 1964 and Children Act 1975
Form A Paragraph 13	Consents	Agreements and consents
	(*c*) Tutor or Curator	(*c*) Tutor or Curator
	(*d*) Spouse of Petitioner	
Crave	in the form set out in the Schedule to the said Act	in the form prescribed by him
	in column 2 of the said Schedule	in the said form
Form B Heading	Form of Consent	Form of Agreement or of Consent
	(*d*) tutor, curator, or guardian of the said EF	(*d*) tutor, curator, or guardian of the said EF
	(*e*) the spouse of the petitioner	
Form B	consent to the making of an Adoption Order in favour of the petitioner(s) (on condition that the religious persuasion in which the infant is proposed to be brought up is)	consent (*in the case of the father and mother and guardian* agree unconditionally) to the making of an Adoption Order in favour of the petitioner(s)

Intimation under section 17 of Act of 1975

5. In the principal Act of Sederunt, after paragraph 12 there shall be inserted the following paragraph:—

"12A. Where the Court refuses to make an Adoption Order in relation to a child under the age of 16 and proposes to order—

(*a*) that the child shall be under the supervision of a specified local authority; or

(*b*) that the child shall be committed to the care of a local authority;

the Court shall order intimation to be made to the local authority concerned of the proposed order and give the local authority an opportunity to make representations in relation thereto; and any such representations may be

made by minute, and on said minute being lodged the parties to the Petition may lodge answers thereto within such period as the Court may allow.".

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

G. C. Emslie,
I.P.D.

Edinburgh.
31st May 1977.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt further amends the rules of procedure for the Sheriff Court contained in the Act of Sederunt (Adoption of Children) 1959 as amended relating to adoption orders as a result of the coming into force of certain provisions of the Children Act 1975.

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