SCOTTISH STATUTORY INSTRUMENTS

2003 No. 67

REGISTRATION OF BIRTHS, DEATHS, MARRIAGES, ETC

The Registration of Foreign Adoptions (Scotland) Regulations 2003

Made - - - -	*30th January 2003*
Laid before the Scottish Parliament - - - -	*7th February 2003*
Coming into force - -	*1st June 2003*

The Registrar General for Scotland, in exercise of the powers conferred by section 60 of and paragraphs 1 and 3 of Schedule 1 to the Adoption (Scotland) Act 1978(**1**), and of all other powers enabling him in that behalf, and with the approval of the Scottish Ministers(**2**), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Registration of Foreign Adoptions (Scotland) Regulations 2003, and shall come into force on 1st June 2003.

Interpretation

2. In these Regulations–

"the 1978 Act" means the Adoption (Scotland) Act 1978;

"the Adopted Children Register" has the same meaning as in section 45 of the 1978 Act(**3**);

"central authority" has the same meaning as in the Convention;

(**1**) 1978 c. 28; section 60 was amended by the Children (Scotland) Act 1995(c. 36), Schedule 2, paragraph 28, and Schedule 5, and by the Adoption (Intercountry Aspects) Act 1999 (c. 18) ("the 1999 Act"), Schedule 2, paragraph 4(6); paragraph 1 of Schedule 1 was amended, and paragraph 3 substituted, by section 12 of the 1999 Act; paragraph 3(4) of Schedule 1 contains a definition of "specified" relevant to the exercise of the statutory powers under which these Regulations are made.

(**2**) Section 60 of the Adoption (Scotland) Act 1978 (c. 28) requires that the Registrar General for Scotland shall not make these Regulations except with the approval of the Secretary of State, and the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c. 46), section 53, and the 1999 Act, section 16.

(**3**) Section 45, which requires that the Registrar General for Scotland maintain the Adopted Children Register, has been relevantly amended by the 1999 Act, section 12.

"the Convention" means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993(**4**);

"Convention adoption" means an adoption effected under the law of any country or territory outside the British Islands in which the Convention is in force, and certified in pursuance of Article 23(1) of the Convention; and

"overseas adoption" has the same meaning as in section 65(2) of the 1978 Act(**5**).

Form of an entry in the Adopted Children Register

3. An entry made in the Adopted Children Register in respect of a Convention adoption or an overseas adoption shall be in the form set out in the Schedule to these Regulations.

Manner of an application for an entry in the Adopted Children Register

4.—(1) An application for an entry to be made in the Adopted Children Register in respect of a Convention adoption or an overseas adoption shall be made in the manner provided for by paragraphs (2) or (3) below as the case may be.

(2) An application under paragraph (1) above in respect of a Convention adoption shall be made in writing, and shall include where appropriate a translation of that application into English certified by the translator as a correct translation.

(3) An application under paragraph (1) above in respect of an overseas adoption shall be made in writing, and shall include where appropriate a translation of that application into English certified by the translator as a correct translation.

(4) In this regulation any application, translation or certificate may be in electronic form, and if in electronic form may be submitted by e-mail or similar means.

Persons who may apply for an entry in the Adopted Children Register

5.—(1) An application for an entry to be made in the Adopted Children Register in respect of a Convention adoption or an overseas adoption may be made only by any of the persons specified in paragraph (2) below.

(2) The persons specified for the purpose of paragraph (1) above are–

(a) in the case of a sole adoptive parent, that parent;

(b) in the case of a couple, either of the adoptive parents;

(c) in the case of an adopted person who has attained the age of 16 years, that person;

(d) in the case of an overseas adoption, where the Registrar General of Births, Deaths and Marriages for Scotland is satisfied that the application is by the Registrar General of Births, Deaths and Marriages (or equivalent officer) for the country in which the adoption order was made, that Registrar (or equivalent officer); and

(e) in the case of a Convention adoption–

(i) the Scottish central authority(**6**); and

(ii) the central authority for the Convention country in which the Convention adoption was made.

(**4**) The text of the Convention (so far as material) is as set out in Schedule 1 to the 1999 Act.

(**5**) The definition in section 65 is amended prospectively by the 1999 Act, Schedule 2, paragraph 4, and the power to specify the description of an overseas adoption has been exercised by S.I.1973/19, as amended by S.I. 1993/690 and 1995/1614.

(**6**) The functions of the central authority in Scotland are to be discharged by the Secretary of State by virtue, and on commencement, of the 1999 Act, section 2, and those functions are prospectively transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c. 46), section 53, and the 1999 Act, section 16(2).

Particulars to be given in respect of an application

6.—(1) An application for an entry to be made in the Adopted Children Register in respect of a Convention adoption or an overseas adoption shall give the particulars specified in paragraph (2) below.

(2) The particulars specified for the purpose of paragraph (1) above are–

(a) the date of birth of the adopted child, if known;

(b) the place and country of birth of the adopted child;

(c) the sex of the adopted child;

(d) the full name or names of the adopted child, both before and after adoption;

(e) the full name or names, including any previous names, of the natural father and mother of the adopted child, to the extent known;

(f) the full name or names, including any previous names, of the adoptive father and mother, or sole adoptive parent if applicable, of the adopted child;

(g) the full address or addresses of the adoptive father and mother, or sole adoptive parent if applicable, at the date of making of–

(i) the adoption order; and

(ii) the application under regulation 5;

(h) the occupation of the adoptive father and mother, or sole adoptive parent if applicable, of the adopted child;

(i) the date of the adoption order made in respect of the adopted child; and

(j) the place and nature of the court or other competent authority which made the adoption order in respect of the adopted child.

Requirements for registration

7.—(1) An application for an entry to be made in the Adopted Children Register in respect of a Convention adoption may be made only if the person making the application provides–

(a) the Article 23 certificate made under the Convention by the central authority of the appropriate Convention country or territory in respect of the adoption, or a copy of that certificate certified as a true copy of the original by a notary public or equivalent officer; and

(b) where appropriate, a translation of that certificate into English certified by the translator as a correct translation.

(2) An application for an entry to be made in the Adopted Children Register in respect of an overseas adoption may be made only if the person making the application provides–

(a) either–

(i) a certified copy of the adoption order made in respect of the adopted child; or

(ii) a certified copy of an entry made in respect of the adopted child, in accordance with the law of the country or territory concerned, in a public register relating to the recording of adoptions, and showing that the adoption has been effected; and

(b) where appropriate, a translation of that order or entry into English certified by the translator as a correct translation.

(3) In paragraph (2)(a) above a copy is certified if it is certified as a true copy of the original order or entry by the court or other competent authority that made that order or entry.