

**The Adoption (Supervision Requirement
Report) (Scotland) Regulations**

**CONSULTATION ON DRAFT
REGULATIONS**

The Scottish Government

Edinburgh, 2008

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INTRODUCTION

This document accompanies the draft Adoption (Supervision Requirement Report) (Scotland) Regulations. It sets out the policy behind the draft Regulations and seeks your comments on a number of issues within the Regulations. The consultation period runs until 8 October 2008.

There are specific questions on which we seek your views and these are highlighted in the document. However, we welcome comments on all of the proposals.

This document is primarily being distributed electronically and is available on the Scottish Government web-site at

www.scotland.gov.uk/adoptionsupervisionregs

If, however, you would wish to be sent the document in photocopy please contact

Suzanne Allan on 0131 244 0407

or e-mail adoptionregulations@scotland.gsi.gov.uk to arrange for a copy or copies to be sent to you.

Please send your response electronically to the above address or in hard copy to

*Adoption Supervision Requirement Regulations Consultation, 2-A(N) Victoria Quay,
EDINBURGH, EH6 6QQ*

Please complete the details on the respondent information form at the end of this document and return it with your response. This will help ensure we handle your response appropriately. The form should be printed first to enable completion and then either scanned and emailed or sent as a hard copy (depending on how you intend to send your response). Thank you for your help.

BACKGROUND

The Adoption and Children (Scotland) Act 2007 ('the 2007 Act') introduced a range of reforms into the law relating to adoption of, and permanent care for, children who cannot remain with their birth families.

Once the new legislation is commenced, the existing legislation – the Adoption (Scotland) Act 1978 ('the 1978 Act') – will be repealed, except to the extent necessary to maintain the legality of those adoptions that have already been made under it. One consequence of this is that existing Regulations made under the 1978 Act will no longer be valid. For that reason new Regulations require to be put in place to restate, and amend, extend and improve, existing Regulations. In doing this account will be taken of the report from the Adoption Policy Review Group (APRG) *Adoption: Better Choices for Our Children*, which has already shaped the 2007 Act itself.

The present consultation paper deals with the draft Adoption (Supervision Requirement Report) (Scotland) Regulations.

Regulations are intended to supplement primary legislation – in this case the 2007 Act – so they do not generally repeat provision already there.

The full text of the 2007 Act may be found at:

http://www.opsi.gov.uk/legislation/scotland/acts2007/asp_20070004_en_1

The APRG Report *Adoption: Better Choices for Our Children* may be found at:

<http://www.scotland.gov.uk/Publications/2005/06/27140607/06107>

COMMENTARY

Regulation 2 - Supervision requirement report

2.—a) The information prescribed for the purposes of section 95(2) of the Adoption and Children (Scotland) Act 2007 to be contained in the report prepared by the children’s hearing is—

- (a) the terms of the proposed supervision requirement;*
- (b) the terms of any pre-existing supervision requirement;*
- (c) the report of the proceedings of the children’s hearing prepared in accordance with rule 31(1) of the Children’s Hearing (Scotland) Rules 1996(1); and*
- (d) any other information which the children’s hearing considers relevant.*

(2) In paragraph (1)(a) and (b) “terms” includes—

- (a) any condition contained in the supervision requirement;*
- (b) any residence requirement; and*
- (c) any duties imposed on the local authority under section 70(3A) of the Children (Scotland) Act 1995(2).*

These regulations are made under section 95 of the Adoption and Children (Scotland) Act 2007. This section applies where an application for a Permanence Order is before a court and the Children’s Hearing proposes to make or modify a supervision requirement.

Section 95(2) of the Adoption and Children (Scotland) Act 2008 places a duty on the Children’s Hearing to prepare a report for the court considering a Permanence Order when it proposes to make or modify a supervision requirement in respect of that child. These Regulations specifically deal with the information which must be contained on the report to the court.

The powers to make regulations in section 95 are specific to the information which must be contained in the report to the court, and the circumstances under which the report is required. Other issues such as timescales will be considered as part of an update of the Children’s Hearing Rules.

Q1 – Is there any other specific information which may be included on the face of this regulation so that it is not missed in further consideration?

(1) S.I. 1996/3261.
(2) 1995 c.36.

ANNEX A: THE ADOPTION (SUPERVISION REQUIREMENT REPORT) REGULATIONS

SCOTTISH STATUTORY INSTRUMENTS

2008 No.

CHILDREN AND YOUNG PERSONS

The Adoption (Supervision Requirement Report) (Scotland) Regulations 2008

<i>Made</i> - - - -	2008
<i>Laid before the Scottish the Scottish Parliament</i>	2008
<i>Coming into force</i> - -	2008

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 95(2) of the Adoption and Children (Scotland) Act 2007⁽³⁾ and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Adoption (Supervision Requirement Report) (Scotland) Regulations 2008 and shall come into force on 2008.

Supervision requirement report

2.—b) The information prescribed for the purposes of section 95(2) of the Adoption and Children (Scotland) Act 2007 to be contained in the report prepared by the children’s hearing is—

- (a) the terms of the proposed supervision requirement;
- (b) the terms of any pre-existing supervision requirement;
- (c) the report of the proceedings of the children’s hearing prepared in accordance with rule 31(1) of the Children’s Hearing (Scotland) Rules 1996⁽⁴⁾; and
- (d) any other information which the children’s hearing considers relevant.

(2) In paragraph (1)(a) and (b) “terms” includes—

- (a) any condition contained in the supervision requirement;
- (b) any residence requirement; and
- (c) any duties imposed on the local authority under section 70(3A) of the Children (Scotland) Act 1995⁽⁵⁾.

⁽³⁾ 2007 asp 4.
⁽⁴⁾ S.I. 1996/3261.
⁽⁵⁾ 1995 c.36.

St Andrew's House,
Edinburgh

2008

Authorised to sign by the Scottish Ministers

RESPONDENT INFORMATION FORM: DRAFT ADOPTION (SUPERVISION REQUIREMENT REPORT) (SCOTLAND) REGULATIONS

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)
- (a) as an individual go to Q2a/b and then Q4
- (b) on behalf of a group/organisation go to Q3 and then Q4

INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in The Scottish Government library and/or on The Scottish Government website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

- 2b. Where *confidentiality is not requested*, we will make your response available to the public on the following basis (please tick one of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

- 3 The name and address of your organisation *will be* made available to the public (in the Scottish Government library and/or on the Scottish Government website). Are you also content for your response to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

- 4 We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

Yes

No