

**NAME OF COUNTRY OR ORGANISATION: SCOTLAND**

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**A EXPLANATIONS AND QUESTIONS**

If a question does not apply to your State, please answer "Not applicable".

**1. Description**

- (a) Is your country (primarily) a receiving State or a State of origin? If both, please ensure your answers to the questions clearly distinguish, when necessary, between your role as a receiving State and your role as a State of origin.

**Primarily a receiving state.**

- (b) If your country is not yet a Party, please specify if your country is considering becoming a party to the Convention.

**Not applicable.**

- (c) Was your country represented at the 2000 Special Commission? Were the Conclusions and Recommendations of that meeting discussed or implemented by relevant authorities in your country?

**Not applicable.**

**2. Good practice**

The Permanent Bureau has commenced work on a Guide to Good Practice on Implementation of the Convention. A consultative group met in September 2004 to provide advice to the Permanent Bureau on this project. It is anticipated that the draft Guide will be circulated, in English, French and Spanish, to all Contracting States in June 2005 seeking comments and for discussion at the Special Commission.

- (a) In relation to any aspect of intercountry adoption, what examples of good practice can you report, (i) from your own country or (ii) from another country?
- (b) Please indicate what topics you would suggest for future chapters in the Guide to Good Practice (in addition to "Implementation", "Central Authority Practice" and possibly "Accreditation").
- (c) Have you experienced any major concerns or problems (i) in your State and (ii) in another State, associated with implementation of the Convention, such as a lack of implementing legislation, inadequate staffing or funding issues?

**Our prospective Hague adoptions that are in progress are in their initial stages but there have been indications that for some States, Ratification of the Convention seems to have resulted in no real procedural changes.**

- (d) If your State has signed but not yet ratified the Convention, please indicate whether your State would like implementation assistance from the Permanent Bureau or other States. What type of assistance would be most beneficial?

**Not applicable.**

**3. Questions concerning scope**

Please specify any difficulties you have experienced in determining whether certain situations do or do not come within the scope of the Convention.

In particular, have there been any problems in determining whether:

(a) a child was or was not habitually resident in the State of origin;

**Not applicable.**

(b) a prospective adopter was or was not habitually resident in the receiving State (as e.g. in the case of a short-term or temporary resident); and

**Not applicable.**

- (c) the removal of the child was or was not “for the purpose of adoption” in the receiving State (as e.g. where the child is initially moved to the receiving country on a temporary basis or for foster care, and later on adoption is considered)?

**Not applicable.**

#### **4. General principles for protection of children**

- (a) What are the different types of care available to a child in need of care and protection in your State?

#### **Residential care, fostering, long term fostering and adoption.**

- (b) Please specify the procedures or other measures in place to ensure that due consideration is given to the possibilities for placement of the child within the State of origin before intercountry adoption is considered (the principle of subsidiarity - see Article 4 *b*) and Preamble, paragraphs 1-3).

**Where the child’s social worker believes that intercountry adoption might be appropriate for the child they will first discuss the matter with their line manager. Where a potential adopter (e.g relative) has not been identified they may also wish to contact the Scottish Executive to establish what level of interest has been shown by prospective adopters from outside the British Islands.**

**Where intercountry adoption appears to be a viable option the local authority should consider the possibility of intercountry adoption at the next review of the child’s care plan. If the child’s review is not due for some time it might be appropriate to arrange an earlier review to consider the possibility of intercountry adoption.**

#### **Identifying the child’s views**

**Where the child is of sufficient age and understanding the child’s social worker will discuss the possibility of intercountry adoption with them. The child will be given the opportunity to discuss what intercountry adoption would mean and the potential for obtaining placement in a foreign country.**

#### **Preparing a Report**

**A record will be kept of all discussions. Where it is believed that the possibility of intercountry adoption should be pursued further the child’s social worker should produce a report to include:**

- **a revised care plan**
- **the reasons why adoption outside the british islands might be in the best interests of the child**
- **the child’s views and wishes in relation to adoption in general and intercountry adoption in particular**
- **the views of the birth parents in relation to adoption in general and intercountry adoption in particular**

- **what are the child's needs for ongoing contact with members of their birth family at present/after adoption and what would be the implications for contact within an intercountry placement**
- **what steps have been taken to find the child an adoptive home in Scotland.**

Consulting the Adoption Panel

**Prior to deciding whether or not to proceed with the option of intercountry adoption the case may be referred to the Adoption Panel. They will then be able to consider the relevant papers and give an informal opinion on whether or not the best interests of the child would be served by intercountry adoption.**

(c) What are your procedures to establish if a child is adoptable?

All adoptions in Scotland are covered by the Adoption (Scotland) Act 1978, as amended by the Children (Scotland) Act 1995. There are also regulations about adoption agencies and adoption allowances, and court rules.

There are four principles which apply to adoption:

- the child's welfare throughout life is paramount in all decisions by adoption agencies and courts
- the child's views must be taken into account in all decisions by agencies and courts
- the child's religious persuasion, racial origin and cultural and linguistic background must be taken into account in all decisions by agencies and courts
- other options for the child must be considered by agencies and courts and they must only respectively plan for adoption or make an adoption or freeing order if satisfied that it is the best option

(d) What procedures are in place to ensure that consent to an adoption is given in accordance with Article 4 c) and d) of the Convention?

Before the court can grant an adoption, everyone with parental responsibilities and rights must either agree to it or have their agreement dispensed with by the court. The court can only do this if it thinks there is the evidence and there are reasons to do so. In some cases, the agreement is dealt with in an earlier, optional court process called freeing. If the court grants a freeing order, parental agreement is not considered in the subsequent adoption.

Where the child is 12 or over, the court must seek his or her agreement to the adoption (and any freeing).

1. Adoption is one of the 'relevant services' for children which must be covered in Children's Services Plans, produced by all local authorities.

What is Freeing?

2. Freeing is a court application, which can only be made by a local authority adoption agency. If granted, the effect is to remove all parental responsibilities and rights from the

birth parents, and give them to the agency.

3. A child does not have to be freed before he or she is adopted, so freeing is not mandatory. However, timescales in the regulations mean that a local authority agency often has to apply for a freeing if the birth parents are not in agreement and the child has not been placed with prospective adopters.

4. Sometimes local authority agencies choose to use a freeing to deal with parental agreement or disagreement before placing with adopters; or to avoid a disputed adoption case between birth and adoptive parents.

(e) Do you make use of the Model Form for the "Statement of consent to the Adoption"? See < [www.hcch.net](http://www.hcch.net) >, "Intercountry Adoption", "Practical Operation Documents", "Annex B to the Special Commission Report of October 1994".

**Not as yet.**

(f) Have you applied the "Recommendation concerning the application to refugee children and other internationally displaced children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption"? See Annex A to the Special Commission Report of October 1994.

**Not applicable.**

(g) How is the eligibility and suitability of prospective adoptive parents assessed in your country (see Article 5 a))?

**The Adoption (Scotland) Act 1978 is currently the basis of adoption legislation in Scotland. Section 1 (3) requires local authority social work departments or approved adoption societies to assess residents of Scotland who meet the criteria and wish to apply to become adoptive parents. The homestudy assessment must also comply with the Adoption Agencies (Scotland) Regulations 1996. This is an extensive study of the applicant's social, cultural and religious background as well as parenting skills and ability to look after a child placed in their care. The assessment procedure includes police checks to ensure that applicants have not committed specified offences against children, medical reports to ensure that each applicant is in good health and character references.**

**The procedures for a person to apply to adopt a child residing abroad is the same for an application to adopt a child residing in the United Kingdom. Only a local authority, which is a statutory body responsible for local government, or an adoption society approved by Scottish Ministers, may make arrangements for the adoption of a child or arrange to place a child for adoption.**

(h) What preparation (counselling, education or training) is given to prospective adoptive parents to prepare them for the intercountry adoption?

Under Scottish adoption legislation local authorities are required to establish and maintain an adoption service that includes intercountry adoption. The intercountry adoption service should include:

- provision of information about intercountry adoption procedures;
- assessing prospective adopters' eligibility and suitability to be adoptive parents (to the same standards as for domestic adoptions); and

- having counselling available as may be required, particularly for those approved as intercountry adopters.

If preparation classes for intercountry adoption are available these should be similar to those for domestic adoptions but with extra elements covering the particular challenges of adopting a child from overseas. Where specific individual issues arise, prospective adopters should be given the opportunity of access to sound professional advice and counselling. In any case prospective adopters should be:

- provided with information on the requirements of the law both in Scotland and, where possible, overseas;
- provided with information about their eligibility to adopt under Scottish law and any specific eligibility criteria that may apply in the countries that they may be interested in adopting from, for example, age limits;
- made aware of the roles and responsibilities of all the key players in the adoption process;
- informed what steps they will have to take if during the assessment process they decide to change from an intercountry to a domestic application or vice versa;
- made aware that they may have to make decisions about whether they wish to adopt a particular child having little or no information about the child's social background or medical history;
- made aware of the opportunity to discuss proposed matches with the agency before agreeing to the match, so that they have the opportunity to consider whether the child is right for them;
- made aware that in some circumstances matching details may be sent directly to them by the overseas authority and that in such circumstances they should notify the agency and the Scottish Executive;
- informed about stages of the adoption process and made aware of likely time scales and costs involved.
- told that they will normally be expected to travel to meet the child before bringing the child back to the UK;
- made aware of the need to notify the local authority of their intention to adopt within 14 days of their arrival in the UK if they do not have an adoption order recognised under Scottish law;
- informed that there are duties on local authorities to secure the welfare of children when they are brought into the country without any adoption order recognised under Scots law. These would be under private fostering legislation;
- given the opportunity to consider what it means for a child to be adopted by a person from another country, having a different culture and possibly a different racial and religious background;

- encouraged to think about and discuss what adopting a child from overseas will mean for them, in both the short and longer term, particularly a child who shares few or none of the racial, cultural or linguistic inheritance of the family and who may have suffered considerable early disadvantage;
- encouraged to consider and discuss what, if any, post-adoption support they may need; and
- encouraged to adopt from countries whose arrangements for the protection of both children and prospective adopters are regulated and controlled. This includes the importance of adopting through voluntary adoption agencies/ charitable organisations overseas and not using unauthorised intermediaries (which can lead to legal and immigration difficulties in relation to the adoption) as well as recognising the protections offered by adopting under the Hague Convention.

- (i) Please also specify the measures / procedures in place to ensure that the requirements concerning the counselling of prospective adopters are complied with (see Article 5 b)).

The Adoption (Scotland) Act 1978 and the Adoption Agencies (Scotland) Regulations 1996 require that these services are provided. The Scottish Commission for the Regulation of Care (Care Commission) monitors adoption agencies to ensure these services are provided.

- (j) Please specify any post-adoption services established or contemplated in your country (see Article 9 c)).

**A number of voluntary agencies (Adoption UK, Birthlink, British Association for Adoption and Fostering) are funded by the Scottish Executive to provide post-adoption support within Scotland. Provisions for post-adoption support are contained in the Adoption (Scotland) Act 1978. These provisions require local authorities to provide a service to meet the needs of adopted children, adoptive parents and the birth parents of adopted children. The Act does not specify exactly what services should be made available in a particular area or to individuals: this is at the discretion of the local authority.**

## **5. Central Authorities**

- (a) Please specify any of the functions under Chapter IV of the Convention performed directly by your Central Authority or Central Authorities.

**We directly perform all of the functions under Chapter IV. The actual preparation, assessment and monitoring of prospective adopters and adoptees is carried out by accredited bodies.**

- (b) Please indicate the number of personnel employed by your Central Authority to deal with intercountry adoption, their experience and qualifications, and what type of training they have received. (Where personnel undertake other functions, count them only for the amount of time spent on intercountry adoption, for example, if a person spends 50% of their time on intercountry adoption, count them as 0.5 of a person.)

### **0.5 personnel.**

- (c) What procedures are in place to ensure continuity of experienced staff and training

for new staff?

**Extensive desk instructions are in place. For any staff changeover there will be a handover period where the existing staff will train the new.**



- (d) Have you experienced difficulties with regard to the establishment or operation of the Central Authority, for example, difficulties over funding or resources?

**No.**

- (e) Please provide details of any difficulties you have experienced communicating with "central" Central Authorities in other countries or with provincial Central Authorities (in your own country or other countries)?

**We have not received any acknowledgement of receipt of applications from other Central Authorities. Also, some Central Authorities seem to bypass the other Central Authority at the matching stage and approach applicants directly.**

## **6. Accreditation**

At the Special Commission meeting in September 2005, the first day will be devoted to an examination of accreditation issues. Your responses to this part of the questionnaire will be very helpful to the Permanent Bureau in the planning and preparations for that day.

### *Accredited bodies*

- (1) Please indicate whether your country uses or intends to use accredited bodies in intercountry adoption. If so, please provide details on the topics (a) to (m) below.

**Yes, accredited bodies are already in use.**

- (a) Please provide details (including powers and resources) of the authority or authorities which grant accreditation.

**The Scottish Commission for the Regulation of Care registers and inspects a range of services, including adoption services provided by adoption agencies. The term 'adoption agency' means local authorities acting as adoption agencies, and registered adoption services.**

- (b) How many bodies have been accredited by your country? Federal States may provide the number for each state or province. If possible, please indicate how many bodies have been refused accreditation.

**32 public bodies have been accredited and 1 voluntary adoption agency.**

- (c) Please give a brief outline of your accreditation criteria, guidelines or legislation.

**Section 2(11)(b) of the Regulation of Care (Scotland) Act 2001 refers to these adoption agencies and they are registered under Part 1 of the Act. National Care Standards for adoption agencies have been developed to ensure that the services they provide are of high quality.**

- (d) What is the process by which accreditation is granted?

The Scottish Commission for the Regulation of Care registers and inspects services against a set of National Care Standards. The standards outline the quality of service that care service users have the right to expect. They have been developed with the intention that the quality of care provided and received throughout Scotland will be consistent. The standards also ensure that all care services will be measured against a set of general principles. They produce inspection reports for each service once an inspection has taken place.

- (e) If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.
- (f) How is the supervision of accredited bodies carried out in your State (Article 11 c))? Are there regular reporting requirements (including financial reporting) by the accredited body to the supervising authority?

The Scottish Commission for the Regulation of Care carries this out in conjunction with the Scottish Executive (Central Authority). There are regular reporting requirements.

- (g) How is the performance of the accredited body assessed or evaluated?

It is measured against the National Care Standards.

- (h) Has the competent supervisory authority encountered any difficulties in relation to (f)?

**No.**

- (i) Are you aware of any acts or behaviour by accredited bodies or approved bodies or persons that contravened your accreditation criteria? Please also provide details of any sanctions or penalties applied?

**No.**

- (j) What are the conditions for renewal of accreditation?

Approval following inspection by The Scottish Commission for the Regulation of Care.

- (k) Have you experienced any difficulties in obtaining assistance or cooperation from other Central Authorities in regard to accredited bodies?

**No.**

- (l) Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?

**No.**

- (m) Do you consider that standard or model accreditation guidelines would assist countries in developing appropriate safeguards or procedures?

**Yes.**

- (2) Has your country authorised foreign accredited bodies to undertake intercountry adoptions in your country (see Article 12)?

**No.**

- (a) What steps are involved in the process of authorisation?
- (b) What supervision of foreign authorised bodies occurs?
- (c) Have you experienced any difficulties regarding a body accredited in one State and authorised to act in another State?

- (3) If your State has decided not to use accredited bodies, please explain the reasons and indicate what has influenced the decision.

- (4) What particular issues concerning accreditation would you like discussed on the Accreditation Day (17 September)?

- (5) Would you like to see a chapter on Accreditation developed for the Guide to Good

Practice for Intercountry Adoption? What issues do you think should be covered in this chapter?

*Approved bodies and persons*

(6) Please indicate whether your country uses or intends to use approved bodies or persons (see Article 22(2)) in intercountry adoption. If so,

**No.**

- (a) How many bodies or persons have been approved by your country to provide adoption services in accordance with Article 22(2)?
- (b) Do you grant approval to persons or bodies from abroad?
- (c) What are the guidelines by which approval is granted (if different from 1(c))?
- (d) What is the process by which approval is granted and renewed?
- (e) How is the supervision of approved bodies or persons carried out in your State (Article 22(2))?
- (f) Has your country made a declaration under Article 22(4)?

**7. Procedural aspects**

(1) Please indicate any operational difficulties that have been experienced, including in particular:

- (a) obtaining accurate and sufficient health and social information on the child;

**None.**

- (b) obtaining accurate and sufficient information on prospective adoptive parents;<sup>1</sup>

**None.**

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<sup>1</sup> The Convention, Articles 15 and 16.

- (c) obtaining an accurate estimate of fees to be paid by adoptive parents prior to adoption and / or travel to collect the child;<sup>2</sup>

**None.**

- (d) documentation requirements, including requirements for legalisation or authentication of documents, or the acceptance of documents by the other country;

**None.**

- (e) obtaining the agreements required in Article 17;

**None, all our Convention applications are in their early stages.**

- (f) receiving post-placement reports from adoptive parents or Central Authorities;<sup>3</sup>

**None, all our Convention applications are in their early stages.**

- (g) translation requirements;

**None.**

- (h) time taken to process Convention cases.

**One of our applications has gone significantly over the processing time estimate given by the foreign authority.**

- (2) Do you permit prospective adopters, once their eligibility and suitability have been established, to make their own arrangements for contacting directly the placement agencies in the country of origin?

**Yes, out of necessity.**

- (3) Has the practice referred to in the preceding question given rise to particular problems of which you are aware?

**Agencies have approached applicants with matches whose age-ranges are outwith their approval range.**

- (4) Please provide details on the breakdown of placements in the Receiving State. What steps have been or are being taken in your country to address this problem (Article 21)?<sup>4</sup>

**Not applicable.**

- (5) Legalisation of foreign documents can be very time consuming for Contracting States. At the Special Commission on the Apostille, Evidence and Service Conventions in November 2003,<sup>5</sup> a recommendation was made concerning the 1993 Convention. The Report states that:

*"The Special Commission stressed the usefulness of linking the application of the Hague Adoption Convention of 1993 to the Apostille Convention [the 1961 Convention Abolishing the Requirement of Legalisation for Foreign Public Documents]. In light of the high number of public documents included in a typical adoption procedure, the Special Commission recommended that States that are party to the Adoption Convention but not to the Apostille Convention*

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<sup>2</sup> See Report of the Special Commission of 2000, page 42, paragraph 7.

<sup>3</sup> See the Convention, Article 20.

<sup>4</sup> The number of placement breakdowns is sought in the new draft Statistics Form.

<sup>5</sup> See "Conclusions and Recommendations adopted by the Special Commission on the Practical Operation of the Hague Apostille, Evidence and Service Conventions", 2003, page 5, available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) >.

*consider actively becoming party to the latter.”<sup>6</sup>*

Would you favour a similar recommendation from the forthcoming Special Commission meeting for the 1993 Convention?

**Yes.**

(6) DNA testing has been used to establish identity (if, for example, a consent is in doubt). Can you provide details of such cases, including the cost and procedures involved?

**Not applicable.**

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<sup>6</sup> See paragraph 6.

## **8. Private international law issues**

(1) The Convention does not determine which authorities have jurisdiction to grant or amend / revoke an adoption nor which law applies to the conditions governing, or the effects of, an adoption.

(a) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the jurisdiction of the authorities to grant or amend / revoke an adoption?

**No.**

(b) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the law or laws to be applied to the conditions governing, or the effects of, an adoption?

**No.**

If the answer to either or both of these questions is "yes", do you wish the Permanent Bureau to study these questions further?

(2) Issues of applicable law may arise when bodies accredited in one Contracting State act in another Contracting State (Article 12), for example:

- whether and to what extent agents of that body are authorised to act and bind their principal;
- whether they have exceeded or misused their authority.

Have you experienced any difficulties in this respect (see also the *Hague Convention of 14 March 1978 on the Law Applicable to Agency*)?

## **9. Recognition and effects**

(1) Have your courts used the Recommended Model Form "Certificate of Conformity of Intercountry Adoption"? See < [www.hcch.net](http://www.hcch.net) >, "Intercountry Adoption", "Practical Operation Documents", "Annex C to the Special Commission Report of October 1994".

**We have not had an adoption completed under the Convention as yet.**

(2) Have you knowledge of any difficulties that have arisen in obtaining certificates under Article 23(1)?

**No.**

(3) Do you have information about any case in which recognition of a Convention adoption has been refused under Article 24?

**No.**

(4) Are there any circumstances in which you would recognise the validity of a foreign adoption coming within the scope of the Convention despite Convention procedures or requirements not having been followed?

**No.**

Please specify any other difficulties that have arisen in relation to Chapter V of the Convention.

## **10. Payment of reasonable charges and fees**

(1) Please quantify the costs and expenses charged or fees paid in your country in respect of intercountry adoptions (Article 32(2)). Is this information freely available and accessible to prospective adoptive parents and competent authorities?

**For intercountry adoption local authorities and voluntary adoption agencies may charge such fees (if any) they consider reasonable to cover the cost of preparation and assessment work. The fees must only meet the costs of the agency in providing information, carrying out the preparation, obtaining medical and police checks, completing the assessment and preparing post-placement/post-adoption reports. No profit may be derived from the work and adoption agencies should provide the prospective adopters with a written statement detailing what is included in the fee. There is no standard fee charged and costs may vary among local authorities and voluntary adoption agencies.**

**Local authorities and voluntary adoption agencies may consider charging fees in instalments. This can help to ensure that the right amount of fee is paid by those who pull out half-way through the process and may also help those unable to pay the full sum prior to assessment.**

**This information is freely available.**

(2) Have you had any experiences with the use of fee caps, established and publicised appropriate fees, established expediting fees, or other similar controls?

**No.**

(3) Do you have any comments on the practice in some countries of requiring a mandatory contribution by adoptive parents for the support or development of child protection services in such countries?

**No.**

(4) Do you have any comments on or experiences of uneven processing amongst countries due to large disparities in fees (for example, applications from countries that offer higher fees may be processed more quickly)?

**We have had anecdotal evidence from applicants suggesting that this may be the case in some countries where a higher fee or particular adoption agency is used.**

(5) Are you aware of any instances of disparity between professional salaries or fees charged for adoptions compared to other forms of legal work? (For example, large legal fees may be charged for adoption, while standard or lower fees are paid for other family law matters such as divorces – see Article 32(3).)

**No.**

(6) Are you aware of any significant differences in fees charged for intercountry adoption by regional or provincial authorities?

**No.**

(7) To what extent, if any, are intercountry adoption fees used (a) to support or develop the national childcare and protection system; or (b) to contribute to funding resources of Central Authorities or accredited bodies?

**Not applicable.**

(8) Do you have any other comments about reasonable or unreasonable costs and expenses or fees?

**No.**

(9) Are you aware of any other problems arising from the payment of fees or charges in your country or in other countries with which you have adoption arrangements?

**No.**

#### **11. Improper financial gain**

(1) Please indicate the laws (including criminal sanctions), measures and procedures in place to give effect to the principle that no one shall derive improper financial or other gain from an activity related to an intercountry adoption (Article 32(1)).

**Under the Adoption (Scotland) Act 1978 it shall not be lawful to make or give to any person any payment or reward for or in consideration of -**

- (a) the adoption by that person of a child;**
- (b) the grant by that person of any agreement or consent required in connection with the adoption of a child;**
- (c) the transfer by that person of the care and possession of a child with a view to the adoption of the child; or**
- (d) the making by that person of any arrangements for the adoption of a child.**

<sup>2</sup>(2) Any person who makes or gives, or agrees or offers to make or give, any payment or reward prohibited by this section, or who receives or agrees to receive or attempts to obtain any such payment or reward, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 5 on the standard scale or to both; and <sup>3</sup>[without prejudice to any power which the court has to make any other order in relation to the child as respects whom the offence was committed, it may order him] to be removed to a place of safety until he can be restored to his parents or guardian or until other arrangements can be made for him.

(2) Are you aware of any instances of success in enforcing penalties to discourage improper financial gain?

**No.**

(3) Are you aware of any difficulties in the enforcement of laws or regulations or in prosecution of criminal activity?

**No.**

(4) Apart from the measures referred to in Question 11(1) above, have any other preventive measures been taken in your country to combat improper financial gain?



**All adoption agencies within the UK and Scotland must operate on a non-profit basis.**

(5) Please provide details of any measures taken to prevent solicitation (e.g. through inducements to consent) of children for adoption (Articles 8 and 29).

**Restriction on advertisements- Under the Adoption (Scotland) Act 1978:**

**52 -(1) It shall not be lawful for any advertisement to be published indicating -**

**(a) that the parent or guardian of a child desires to cause a child to be adopted; or**

**(b) that a person desires to adopt a child; or**

**(c) that any person (not being an adoption agency) is willing to make arrangements for the adoption of a child.**

**<sup>1</sup>(2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.**

(6) Have you experienced any difficulties in obtaining co-operation or assistance from other States in eliminating practices that lead to improper financial gain?

**No.**

## **12. Relative adoptions**

Do you have any comments on the application of the Convention procedures to relative (inter-family) adoptions?

**No.**

## **13. Children with special needs**

What policies or programmes do you have to ensure that children with special needs are given the same opportunity to find a family through intercountry adoption as other children?

**No particular programmes. The child's welfare throughout life is the paramount factor in all decisions by adoption agencies and courts.**

## **14. Other forms of cross-border child care**

International foster care, transnational *kafala* and other forms of child care with a cross-border element are not covered by the 1993 Convention, but by the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children*: See for example its Articles 3 e) and 33(1).

(1) Is your country involved in international placements of children other than for purposes of adoption?

**No.**

(2) Are you aware of any difficulties concerning such placements?

**No.**

(3) If your country is not yet a Party to the 1996 Convention, is your country actively studying ratifying or acceding to it?

**Not applicable.**

## **15. Avoiding the Convention**

Are you aware of any attempts to circumvent the Convention or to avoid protections afforded to children, including the moving of children or birth parents to other countries?

**No.**

## **16. Additional safeguards and bilateral arrangements**

Please describe any additional safeguards, requirements or procedures, which you apply to Convention adoptions (*i.e.* over and above those which are set out in the Convention itself). Are these applied generally, or only in relation to particular States?

Have you made agreements with one or more other Contracting State (see Article 32(2)) with a view to improving the application of the Convention? If so, please specify with which States and what matters are covered by the agreements.

**No.**

Do you have any comments on the efficacy of bilateral arrangements:

(a) with non-Contracting States? Are Convention safeguards applied?

**All adoptions with non-Contracting States are carried out in the spirit of the Convention, using similar procedure.**

- (b) with Contracting States? Do they improve the operation of the Convention? Have they caused any difficulties?

**Not applicable.**

**17. Limits on number of States with whom co-operation is possible**

In making arrangements for intercountry adoption (whether as a receiving State or as a State of origin), have you found it necessary to confine co-operation under the Convention to a limited number of other Contracting States? If so, please explain the reasons (e.g. no appropriate accredited body, lack of resources to process applications from large number of States, etc) and indicate what has influenced the choice of these States.

**No.**

**B SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION**

**18.** Do you regularly hold seminars, training sessions or workshops on the Adoption Convention in your State? Would you welcome participants from other countries? Would you find it helpful if there was a consistent way to announce such activities to other States? Do you have suggestions?

**Regular seminars are held.**

**19.** In the current negotiations for a new Convention on the International Recovery of Child Support and other Forms of Family Maintenance, an Administrative Co-operation Working Group has been established to examine and report on practical problems and issues of administrative co-operation between authorities. Would you favour the establishment of a similar group for the 1993 Convention?

**Unsure.**

**20.** Please indicate which topics you consider priority issues for the Special Commission in September 2005, and their degree of importance.

**21.** Any other suggestions, comments and observations are welcomed.