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## 2022 CHAPTER 18

### PART 1 **N.I.**

#### Adoption

PROSPECTIVE

#### CHAPTER 2 **N.I.**

##### The Adoption Service

##### *The Adoption Service*

#### **Basic definitions** **N.I.**

2.—(1) The services maintained under section 4(1) may be collectively referred to as “the Adoption Service”.

(2) In this Act—

“adoption agency” means an adoption authority or an appropriate voluntary organisation;

“adoption society” means a body whose functions consist of or include making arrangements for the adoption of children;

“adoption authority” is to be construed in accordance with section 3.

(3) In this Act “appropriate voluntary organisation” means a voluntary organisation which is an adoption society in respect of which a person is registered; but in relation to the provision of any facility of the Adoption Service, references to an appropriate voluntary organisation or to an adoption

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agency do not include an adoption society if the registration is not in respect of that facility.

(4) Registration in respect of an adoption society is to be treated as being in respect of any facility of the Adoption Service unless it is a condition of the registration that that facility is not provided.

(5) In subsections (3) and (4)—

“registered” means registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

“registration” means registration under that Order.

(6) In this Act “adoption support services” means—

(a) counselling, advice and information; and

(b) such other services as may be prescribed,

in relation to adoption.

(7) The power to make regulations under subsection (6)(b) is to be exercised so as to secure that adoption authorities provide financial support.

(8) In this Chapter references to adoption are to the adoption of persons, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the United Kingdom, the Channel Islands and the Isle of Man.

#### Commencement Information

**II** S. 2 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Adoption authority **N.I.**

**3.—**(1) Every HSC trust is the adoption authority in relation to its area.

(2) But regulations may provide that in relation to prescribed functions or services under this Act another HSC trust is to be the adoption authority in relation to that area.

(3) In this Act—

“HSC trust” means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 except the Northern Ireland Ambulance Service Health and Social Care Trust; and

references to the area of an HSC trust are to its operational area as specified under paragraph 3A of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991.

(4) Regulations may amend the definition of “HSC trust” in subsection (3).

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### Commencement Information

I2 S. 3 not in operation at Royal Assent, see [s. 160\(1\)](#)

## The Adoption Service **N.I.**

4.—(1) An adoption authority must maintain a service designed to meet the needs, in relation to adoption, of—

- (a) children who may be adopted, their parents and guardians;
- (b) persons wishing to adopt a child; and
- (c) adopted persons, their parents, natural parents and former guardians;

and for that purpose must provide the requisite facilities.

(2) Those facilities must include making, and participating in, arrangements—

- (a) for the adoption of children; and
- (b) for the provision of adoption support services.

(3) As part of the service, the arrangements made for the purposes of subsection (2)(b)—

- (a) must extend to the provision of adoption support services to persons who are within a prescribed description;
- (b) may extend to the provision of those services to other persons.

(4) An adoption authority may provide any of the requisite facilities by securing their provision by—

- (a) an appropriate voluntary organisation or in relation to the provision of adoption support services of a prescribed description a voluntary organisation; or
- (b) other persons who are within a prescribed description of persons who may provide the facilities in question.

(5) The facilities of the service must be provided in conjunction with any other social care provided by the adoption authority, with appropriate voluntary organisations and with voluntary organisations providing facilities under subsection (4)(a), so that help may be given in a co-ordinated manner without duplication, omission or avoidable delay.

(6) In this section “social care” has the meaning given by section 2(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (and, in particular, social care in so far as it relates to children).

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### Commencement Information

**I3** S. 4 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Assessments etc. for adoption support services **N.I.**

**5.—(1)** An adoption authority must at the request of—

- (a) any of the persons mentioned in paragraphs (a) to (c) of section 4(1), or
- (b) any other person who falls within a prescribed description (subject to subsection (8)(a)),

carry out an assessment of that person's needs for adoption support services.

(2) An adoption authority may, at the request of any person, carry out an assessment of that person's needs for adoption support services.

(3) An adoption authority may request the help of the persons mentioned in paragraph (a) or (b) of section 4(4) in carrying out an assessment.

(4) Where, as a result of an assessment, an adoption authority decides that a person has needs for adoption support services, the adoption authority must then decide whether to provide any such services to that person, subject to subsection (5).

(5) An adoption authority must provide adoption support services to a person under subsection (4) where—

- (a) that person is a child who may be adopted;
- (b) that person is a parent or guardian of a child who may be adopted;
- (c) that person is a person wishing to adopt a child;
- (d) that person is an adopted person;
- (e) that person is a parent, natural parent or former guardian of an adopted person; or
- (f) that person is within a prescribed description.

(6) If—

- (a) an adoption authority decides to provide any adoption support services to a person under subsection (4) or is under a duty to do so by virtue of subsection (5); and
- (b) the circumstances fall within a prescribed description,

the adoption authority must prepare a plan in accordance with which adoption support services are to be provided to the person and keep the plan under review.

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(7) Regulations may make provision about assessments, preparing and reviewing plans, the provision of adoption support services in accordance with plans and reviewing the provision of adoption support services.

(8) The regulations may in particular make provision—

- (a) as to the circumstances in which a person mentioned in paragraph (b) of subsection (1) is to have a right to request an assessment of that person's needs in accordance with that subsection;
- (b) about the type of assessment which, or the way in which an assessment, is to be carried out;
- (c) about the way in which a plan is to be prepared;
- (d) about the way in which, and time at which, a plan or the provision of adoption support services is to be reviewed;
- (e) about the considerations to which an adoption authority is to have regard in carrying out an assessment or review or preparing a plan;
- (f) as to the circumstances in which an adoption authority may provide adoption support services subject to conditions;
- (g) as to the consequences of conditions imposed by virtue of paragraph (f) not being met (including the recovery of any financial support provided by an adoption authority);
- (h) as to the circumstances in which this section may apply to an adoption authority in respect of persons who are outside its area;
- (i) as to the circumstances in which an adoption authority may recover from another adoption authority the expenses of providing adoption support services to any person.

(9) An adoption authority may carry out an assessment of the needs of any person under this section at the same time as an assessment of that person's needs is made under any other statutory provision.

(10) If at any time during the assessment of the needs of any person under this section, it appears to an adoption authority that there may be a need for the provision of services to that person—

- (a) by another health and social care body (within the meaning of the Health and Social Care (Reform) Act (Northern Ireland) 2009); or
- (b) by the Education Authority,

the adoption authority must notify the body or the Education Authority, as the case may be.

(11) Where it appears to an adoption authority that another public body could, by taking any specified action, help in the exercise of any of the adoption authority's functions under this section, the adoption authority may request the help of that body, specifying the action in question.

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(12) A public body whose help is so requested must comply with the request if it is consistent with the exercise of its functions.

**Commencement Information**

**I4** S. 5 not in operation at Royal Assent, see [s. 160\(1\)](#)

**Adoption support services: duty to provide information** **N.I.**

**6.—(1)** Except in prescribed circumstances, an adoption authority must provide the information specified in subsection (2) to—

- (a) any person who has contacted the adoption authority to request information about adopting a child;
- (b) any person who has informed the adoption authority that he or she wishes to adopt a child;
- (c) any person within the adoption authority's area who the adoption authority is aware is a parent of an adopted child; and
- (d) any person within the adoption authority's area who is a parent of an adopted child and has contacted the adoption authority to request any of the information specified in subsection (2).

(2) The information is—

- (a) information about the adoption support services available to people in the adoption authority's area;
- (b) information about the right to request an assessment under section 5 (assessments etc. for adoption support services), and the adoption authority's duties under that section and regulations made under it; and
- (c) any other information prescribed by regulations.

**Commencement Information**

**I5** S. 6 not in operation at Royal Assent, see [s. 160\(1\)](#)

**Arrangements on cancellation of registration** **N.I.**

**7.—(1)** Where, by virtue of the cancellation of its registration, a body has ceased to be an appropriate voluntary organisation, the Department may direct the body to make such arrangements as to the transfer of the body's functions relating to children and other transitional matters as seem to the Department expedient.

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(2) In this section “registration” means registration under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

#### Commencement Information

**16** S. 7 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Inactive or defunct adoption societies, etc. **N.I.**

**8.—(1)** This section applies where it appears to the Department that—

- (a) a body which is or has been an appropriate voluntary organisation is inactive or defunct, or
- (b) a body which has ceased to be an appropriate voluntary organisation by virtue of the cancellation of its registration has not made such arrangements for the transfer of its functions relating to children as are specified in a direction given by the Department.

(2) The Department may, in relation to such functions of the body as relate to children, direct what appears to it to be the appropriate adoption authority to take any such action as might have been taken by the body or by the body jointly with the authority.

(3) An adoption authority is entitled to take any action which—

- (a) apart from this subsection the authority would not be entitled to take, or would not be entitled to take without joining the body in the action, but
- (b) the authority is directed to take under subsection (2).

(4) The Department may charge the body for expenses necessarily incurred by the Department or on its behalf in securing the transfer of the body’s functions relating to children.

(5) Before giving a direction under subsection (2) the Department must, if practicable, consult both the body and the adoption authority.

(6) In this section “registration” means registration under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

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**17** S. 8 not in operation at Royal Assent, see [s. 160\(1\)](#)

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## Regulations

### General power to regulate adoption agencies **N.I.**

**9.—(1)** Regulations may make provision for any purpose relating to the exercise by adoption agencies of their functions in relation to adoption.

(2) The extent of the power to make regulations under this section is not limited by sections 10 to 12, 42, 53, 55 to 64 and 102 or by any other powers exercisable in respect of adoption agencies.

(3) Regulations may provide that a person who contravenes or fails to comply with any provision of regulations under this section is to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**18** S. 9 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Management, etc., of agencies **N.I.**

**10.—(1)** In relation to adoption agencies, regulations under section 9 may make provision as to—

- (a) the persons who are fit to work for them for the purposes of their functions relating to adoption;
- (b) the fitness of premises;
- (c) the management and control of their operations;
- (d) the number of persons, or persons of any particular type, working for the purposes of those functions;
- (e) the management and training of persons working for the purposes of those functions;
- (f) the keeping of information.

(2) Regulations made by virtue of subsection (1)(a) may, in particular, make provision for prohibiting persons from working in prescribed positions unless they are registered in, or in a particular part of, the register maintained under section 3 of the Health and Personal Social Services Act (Northern Ireland) 2001.

(3) In relation to appropriate voluntary organisations, regulations under section 9 may—

- (a) make provision as to the persons who are fit to manage an appropriate voluntary organisation, including provision prohibiting persons from doing so unless they are registered as mentioned in subsection (2);



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- (b) impose requirements as to the financial position of an appropriate voluntary organisation;
  - (c) make provision requiring the appointment of a manager;
  - (d) make provision for securing the welfare of children placed by the appropriate voluntary organisation, including provision as to the promotion and protection of their health.
- (4) Regulations under section 9 may make provision as to the conduct of appropriate voluntary organisations, and may in particular make provision—
- (a) as to the facilities and services to be provided by an appropriate voluntary organisation;
  - (b) as to the keeping of accounts;
  - (c) as to the notification to the RQIA of events occurring in premises used for the purposes of an appropriate voluntary organisation;
  - (d) as to the giving of notice to the RQIA of periods during which the manager of an appropriate voluntary organisation proposes to be absent, and specifying the information to be given in such a notice;
  - (e) as to the making of adequate arrangements for the running of an appropriate voluntary organisation during a period when its manager is absent;
  - (f) as to the giving of notice to the RQIA of any intended change in the identity of the manager;
  - (g) as to the giving of notice to the RQIA of changes in the ownership of an appropriate voluntary organisation or the identity of its officers;
  - (h) requiring the payment of a prescribed fee to the RQIA in respect of any notification required to be made by virtue of paragraph (g);
  - (i) requiring arrangements to be made for dealing with complaints made by or on behalf of those seeking, or receiving, any of the services provided by an appropriate voluntary organisation and requiring the appropriate voluntary organisation or manager to take steps for publicising the arrangements.

#### Commencement Information

**I9** S. 10 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Fees **N.I.**

**11.—(1)** Regulations under section 9 may prescribe—

- (a) the fees which may be charged by adoption agencies in respect of the provision of services to persons providing facilities as part of the

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Adoption Service (including Adoption Services in Great Britain, the Channel Islands and the Isle of Man);

(b) the fees which may be paid by adoption agencies to persons providing or assisting in providing such facilities.

(2) Regulations under section 9 may prescribe the fees which may be charged by adoption authorities in respect of the provision of prescribed facilities of the Adoption Service where the following conditions are met.

(3) The conditions are that the facilities are provided in connection with—

(a) the adoption of a child brought into the United Kingdom for the purpose of adoption; or

(b) a Convention adoption, an overseas adoption or an adoption effected under the law of a country or territory outside the United Kingdom, the Channel Islands and the Isle of Man.

(4) Regulations under section 9 may prescribe the fees which may be charged by adoption agencies in respect of the provision of counselling, where the counselling is provided in connection with the disclosure of information in relation to a person's adoption.

#### Commencement Information

**I10** S. 11 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Independent review of qualifying determinations of adoption agencies **N.I.**

**12.**—(1) Regulations under section 9 may establish a procedure under which any person in respect of whom a qualifying determination has been made by an adoption agency may apply to the Department for a review of that determination by a panel constituted by the Department.

(2) The regulations must make provision as to the determinations which are qualifying determinations for the purposes of subsection (1).

(3) The regulations may include provision as to—

(a) the duties and powers of a panel;

(b) the administration and procedures of a panel;

(c) the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment);

(d) the payment of fees to members of a panel;

(e) the duties of adoption agencies in connection with reviews conducted under the regulations;

(f) the monitoring of any such reviews.

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(4) Regulations made by virtue of subsection (3)(e) may impose a duty to pay to the Department such sum as the Department may determine.

(5) The Department must secure that, taking one financial year with another, the aggregate of the sums which become payable to the Department under regulations made by virtue of subsection (4) does not exceed the cost to the Department of performing independent review functions.

(6) The Department may make an arrangement with an organisation under which independent review functions are performed by the organisation on behalf of the Department.

(7) If the Department makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any directions given by the Department.

(8) The arrangement may include provision for payments to be made to the organisation by the Department.

(9) Payments made by the Department in accordance with such provision are to be taken into account in determining (for the purpose of subsection (5)) the cost to the Department of performing independent review functions.

(10) In this section—

“independent review function” means a function conferred or imposed on the Department by regulations made under this section;

“organisation” includes a public body and a private or voluntary organisation.

#### Commencement Information

**III** S. 12 not in operation at Royal Assent, see [s. 160\(1\)](#)

### *Supplemental*

#### **Information concerning adoption** **N.I.**

**13.—**(1) Each adoption agency must give the Department any statistical or other general information which the Department requires about—

- (a) the agency’s performance of all or any of its functions relating to adoption;
- (b) the children and other persons in relation to whom it has exercised those functions.

(2) The information required to be given under this section must be given at the times, and in the form, directed by the Department.

(3) The Department may publish abstracts of the information given under this section.

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### Commencement Information

I12 S. 13 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Inspection of premises, etc. **N.I.**

14.—(1) The Department may arrange for any premises in which—

- (a) a child is living with a person with whom the child has been placed by an adoption agency; or
- (b) a child in respect of whom a notice of intention to adopt has been given under section 41 is, or will be, living,

to be inspected.

(2) The Department may require an adoption agency—

- (a) to give the Department any information; or
- (b) to allow the Department to inspect any records (in whatever form they are held),

relating to the discharge of any of the adoption agency's functions in relation to adoption which the Department specifies.

(3) An inspection under this section must be conducted by a person authorised by the Department.

(4) A person inspecting any premises under subsection (1) may—

- (a) visit the child there; and
- (b) make any examination into the state of the premises and the treatment of the child there which the person considers necessary.

(5) A person authorised to inspect any records under this section may at any reasonable time have access to, and inspect and check the operation of, any computer (and associated apparatus) which is being or has been used in connection with the records in question.

(6) A person authorised to inspect any premises or records under this section may—

- (a) enter the premises for that purpose at any reasonable time; and
- (b) require any person to give the person so authorised any reasonable assistance which the person so authorised may require.

(7) A person exercising a power under this section must, if required to do so, produce a duly authenticated document showing the person's authority.

(8) Any person who intentionally obstructs another in the exercise of a power under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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**I13** S. 14 not in operation at Royal Assent, see [s. 160\(1\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by S.I. 2018/412, Sch. 3 (as substituted) by [2022 c. 18 \(N.I.\) Sch. 3 para. 83](#)