



2022 CHAPTER 18

PART 3

Miscellaneous and supplementary

*Northern Ireland Adoption and Children Act Register*

**Northern Ireland Adoption and Children Act Register**

**144.**—(1) The Department must establish and maintain a register, to be called the Northern Ireland Adoption and Children Act Register, containing—

- (a) prescribed information about children who are suitable for adoption, children for whom an adoption authority is considering adoption and prospective adopters who are suitable to adopt a child;
- (b) prescribed information about persons included in the register in pursuance of paragraph (a) in respect of things occurring after their inclusion.

(2) Regulations may provide that the register may contain—

- (a) prescribed information about children who an English, a Welsh or a Scottish adoption agency is satisfied are suitable for adoption;
- (b) prescribed information about prospective adopters who an English, a Welsh or a Scottish adoption agency is satisfied are suitable to adopt a child;
- (c) prescribed information about persons included in the register in pursuance of paragraph (a) or (b) in respect of things occurring after their inclusion.

(3) For the purpose of giving assistance in finding persons with whom children may be placed for purposes other than adoption, regulations under this section may—

- (a) provide for the register to contain information about such persons and the children who may be placed with them; and
  - (b) apply any of the other provisions of this group of sections (that is, this section and sections 145 to 151), with or without modifications.
- (4) The register is not to be open to public inspection or search (subject to regulations under section 149).
- (5) Regulations under this section may make provision about the retention of information in the register.
- (6) Information is to be kept in the register in any form the Department considers appropriate.

#### **Use of an organisation to establish the register**

**145.**—(1) The Department may make an arrangement with an organisation under which any function of the Department under section 144 of establishing and maintaining the register, and disclosing information entered in or compiled from information entered in the register to any person is performed wholly or partly by the organisation on the Department's behalf.

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

(3) If the Department makes an arrangement under this section with an organisation, the organisation is to perform the functions exercisable by virtue of this section in accordance with any directions given by the Department.

(4) References in this group of sections to the registration organisation are to any organisation for the time being performing functions in respect of the register by virtue of arrangements under this section.

#### **Use of an organisation as an agency for payments**

**146.**—(1) Regulations may authorise an organisation with which an arrangement is made under section 145 to act as agent for the payment or receipt of sums payable by adoption agencies to other adoption agencies and may require adoption agencies to pay or receive such sums through the organisation.

(2) The organisation is to perform the functions exercisable by virtue of this section in accordance with any directions given by the Department.

#### **Supply of information for the register**

**147.**—(1) Regulations may require adoption agencies to give prescribed information to the Department or the registration organisation for entry in the register.

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*Status: This is the original version (as it was originally enacted).*

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(2) Information is to be given to the Department or the registration organisation when required by the regulations and in the prescribed form and manner.

(3) Regulations may make provision enabling adoption agencies to enter prescribed information in the register.

(4) Information that is to be entered in the register by adoption agencies is to be entered in the prescribed form and manner.

(5) Regulations may require an agency giving information which is entered on the register or entering information in the register to pay a prescribed fee to the Department or the registration organisation.

(6) But an adoption agency is not to disclose any information to the Department or the registration organisation or to enter any information in the register—

- (a) about prospective adopters who are suitable to adopt a child, or persons who were included in the register as such prospective adopters, without their consent;
- (b) about children suitable for adoption or for whom an adoption authority is considering adoption, or persons who were included in the register as such children, without the consent of the prescribed person.

(7) Consent under subsection (6) is to be given in the prescribed form.

### **Disclosure of information**

**148.**—(1) Information entered in the register, or compiled from information entered in the register, may only be disclosed under subsection (2), (3) or (4), section 149 or section 150.

(2) Prescribed information entered in the register may be disclosed by the Department or the registration organisation—

- (a) where an adoption agency is acting on behalf of a child who is suitable for adoption or for whom an adoption authority is considering adoption, to the agency to assist in finding prospective adopters with whom it would be appropriate for the child to be placed;
- (b) where an adoption agency is acting on behalf of prospective adopters who are suitable to adopt a child, to the agency to assist in finding a child appropriate for adoption by them.

(3) Regulations may make provision permitting the disclosure of prescribed information entered in the register, or compiled from information entered in the register—

- (a) to an adoption agency or to an English, a Welsh or a Scottish adoption agency for any prescribed purpose; or

- (b) for the purpose of enabling the information to be entered in a register which is maintained in respect of England, Wales or Scotland and which contains information about children who are suitable for adoption or prospective adopters who are suitable to adopt a child.
- (4) Prescribed information entered in the register, or compiled from information entered in the register, may be disclosed by the Department or the registration organisation to any prescribed person for use for statistical or research purposes, or for other prescribed purposes.
- (5) Regulations may prescribe the steps to be taken by adoption agencies in respect of information received by them by virtue of subsection (2) or (3).
- (6) Subsection (1) does not apply to a disclosure of information with the authority of the Department.
- (7) Information disclosed to any person under subsection (2), (3) or (4) may be given on any prescribed terms or conditions.
- (8) Regulations may, in prescribed circumstances, require a prescribed fee to be paid to the Department or the registration organisation—
  - (a) by a prescribed adoption agency in respect of information disclosed under subsection (2) or (3);
  - (b) by a prescribed English, Welsh or Scottish adoption agency in respect of information disclosed under subsection (3); or
  - (c) by a person in respect of information disclosed under subsection (4).
- (9) If any information entered in the register is disclosed to a person in contravention of subsection (1), the person disclosing it is guilty of an offence.
- (10) A person guilty of an offence under subsection (9) is liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

### **Search and inspection of the register by prospective adopters**

- 149.**—(1) Regulations may make provision enabling prospective adopters who are suitable to adopt a child to search and inspect the register, for the purposes of assisting them to find a child for whom they would be appropriate adopters.
- (2) Regulations under subsection (1) may make provision enabling prospective adopters to search and inspect only prescribed parts of the register, or prescribed content on the register.
  - (3) Access to the register for the purpose of searching and inspecting it may be granted on any prescribed terms and conditions.
  - (4) Regulations may prescribe the steps to be taken by prospective adopters in respect of information received by them as a result of searching or inspecting the register.

(5) Regulations may make provision requiring prospective adopters, in prescribed circumstances, to pay a prescribed fee to the Department or the registration organisation in respect of searching or inspecting the register.

### **Search and inspection of the register by adoption agencies**

**150.**—(1) Regulations may make provision enabling adoption agencies to search and inspect the register—

- (a) where an adoption agency is acting on behalf of a child who is suitable for adoption, to assist the agency in finding prospective adopters with whom it would be appropriate for the child to be placed;
- (b) where an adoption agency is acting on behalf of prospective adopters who are suitable to adopt a child, to assist the agency in finding a child appropriate for adoption by them;
- (c) for such other purposes as may be prescribed.

(2) Regulations under subsection (1) may make provision enabling adoption agencies to search and inspect only prescribed parts of the register, or prescribed content on the register.

(3) Access to the register for the purpose of searching and inspecting it may be granted on any prescribed terms and conditions.

(4) Regulations may prescribe the steps to be taken by adoption agencies in respect of information received by them as a result of searching or inspecting the register.

(5) Regulations may make provision requiring adoption agencies, in prescribed circumstances, to pay a prescribed fee to the Department or the registration organisation in respect of searching or inspecting the register.

### **Supplementary**

**151.**—(1) In this group of sections—

“English adoption agency” means “an adoption agency” within the meaning of section 131(1)(za) of the Adoption and Children Act 2002;

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

“the register” means the Northern Ireland Adoption and Children Act Register;

“Scottish adoption agency” has the meaning given by section 144(3) of the Adoption and Children Act 2002;

“Welsh adoption agency” has the meaning given by section 131(1)(ca) of the Adoption and Children Act 2002.

(2) For the purposes of this group of sections (except sections 144(2) and 148(3))—

- (a) a child is suitable for adoption if an adoption agency is satisfied that the child ought to be placed for adoption;
  - (b) prospective adopters are suitable to adopt a child if an adoption agency is satisfied that they are suitable to have a child placed with them for adoption.
- (3) For the purposes of sections 144(2) and 148(3)—
- (a) a child is suitable for adoption if an English, Welsh or Scottish adoption agency is satisfied that the child ought to be placed for adoption;
  - (b) prospective adopters are suitable to adopt a child if an English, Welsh or Scottish adoption agency is satisfied that they are suitable to have a child placed with them for adoption.
- (4) Nothing authorised or required to be done by virtue of this group of sections constitutes an offence under section 97, 98 or 99.

### *Supplementary*

#### **Time limit within which proceedings may be brought**

**152.**—(1) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence to which this section applies may be brought within a period of six months from the date on which evidence sufficient in the opinion of the complainant to warrant the proceedings came to the complainant's knowledge; but such proceedings may not be brought by virtue of this section more than six years after the commission of the offence.

(2) For the purposes of this section a certificate signed by or on behalf of the complainant and stating the date on which such evidence as is mentioned in subsection (1) came to the complainant's knowledge is conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

- (3) This section applies to an offence by virtue of—
- section 9;
  - section 58;
  - section 97;
  - section 98;
  - section 99; or
  - section 148.

**Research and investigations**

**153.** The Department may conduct or promote or assist (by grants or otherwise) any person in conducting research or investigations into any matter connected with the functions under Part 1 of an adoption authority or the Department.

**Amendments, transitional and transitory provisions, savings and repeals**

**154.**—(1) The statutory provisions set out in Schedule 3 have effect subject to the amendments there specified.

(2) Schedule 4 (transitional and transitory provisions and savings) has effect.

(3) The statutory provisions set out in Schedule 5 are hereby repealed to the extent specified in the second column of that Schedule.

**Regulations and orders**

**155.**—(1) Regulations other than regulations to which subsection (2) applies are subject to negative resolution.

(2) This subsection applies to regulations under—

- (a) section 3(4);
- (b) section 9 which include provision made under section 42;
- (c) section 24;
- (d) section 52;
- (e) section 77;
- (f) section 98; or
- (g) section 144, 146, 147, 148, 149 or 150,

and to regulations which amend or repeal a provision of an Act of Parliament or Northern Ireland legislation.

(3) Regulations to which subsection (2) applies must not be made unless a draft of them has been laid before, and approved by resolution of, the Assembly.

(4) An order must not be made under—

- (a) section 96(6);
- (b) section 115(4); or
- (c) section 157 if it amends or repeals a provision of an Act of Parliament or Northern Ireland legislation,

unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(5) An order under section 157 other than an order to which subsection (4) (c) applies is subject to negative resolution.

(6) Regulations and orders made under this Act by any Department mentioned in subsection (7) may contain such incidental, supplementary, transitional, transitory or saving provisions as appear to that Department to be necessary or expedient.

(7) The Departments referred to in subsection (6) are—

- (a) the Department;
- (b) the Department of Finance; and
- (c) the Department of Justice.

### **Rules of court**

**156.**—(1) In this Act “rules of court” includes family proceedings rules and county court rules (as well as rules of court as defined in section 21(4) of the Interpretation Act (Northern Ireland) 1954).

(2) In subsection (1) “family proceedings rules” has the meaning given in Article 12(5) of the Family Law (Northern Ireland) Order 1993.

(3) In the case of an application for a placement order, for the variation or revocation of a placement order, or for an adoption order, the rules must require any person mentioned in subsection (4) to be notified—

- (a) of the date and place where the application will be heard; and
- (b) of the fact that, unless the person wishes or the court requires, the person need not attend.

(4) The persons referred to in subsection (3) are—

- (a) in the case of a placement order, every person who can be found whose consent to the making of the order is required under subsection (3)(a) of section 18 (or would be required but for subsection (3)(b) of that section) or, if no such person can be found, any relative who can be found;
- (b) in the case of a variation or revocation of a placement order, every person who can be found whose consent to the making of the placement order was required under subsection (3)(a) of section 18 (or would have been required but for subsection (3)(b) of that section);
- (c) in the case of an adoption order—
  - (i) every person who can be found whose consent to the making of the order is required under subsection (2)(a) of section 44 (or would be required but for subsection (2)(c) of that section) or, if no such person can be found, any relative who can be found;
  - (ii) every person who has consented to the making of the order under section 17 (and has not withdrawn the consent) unless the person has given a notice under subsection (4)(a) of that section which has effect;



(iii) every person who, if leave were given under section 44(5), would be entitled to oppose the making of the order.

(5) In subsection (4) “relative” means a relative prescribed by rules of court.

(6) Rules of court may, for the purposes of the law relating to contempt of court, authorise the publication in such circumstances as may be specified of information relating to proceedings held in private involving children.

### **Supplementary and consequential provision**

**157.**—(1) Any Department mentioned in subsection (2) may by order make—

- (a) any supplementary, incidental or consequential provision,
- (b) any transitory, transitional or saving provision,

which that Department considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.

(2) The Departments referred to in subsection (1) are—

- (a) the Department;
- (b) the Department of Finance; and
- (c) the Department of Justice.

(3) An order under this section may amend, repeal or modify any statutory provision.

### **Review**

**158.**—(1) The Department must, at least once every three years—

- (a) prepare and publish a report on the implementation of each of the provisions of Parts 1 and 2, and
- (b) lay a copy of the report before the Assembly.

(2) The first report under subsection (1) must be prepared and published within the period of 3 years beginning with the date on which this Act is passed.

(3) This section expires at the end of the period of ten years beginning with the date on which this Act is passed, but this is subject to subsection (4).

(4) Subsection (3) does not have effect unless all of the provisions of Parts 1 and 2 have been commenced and included in a report under this section.

### **Interpretation**

**159.**—(1) In this Act—

- “adoption agency” has the meaning given by section 2;
- “adoption authority” has the meaning given by section 2(2);
- “adoption order” has the meaning given by section 43(1);

- “adoption society” has the meaning given by section 2(2);
- “adoption support services” has the meaning given by section 2(6);
- “appropriate voluntary organisation” has the meaning given by section 2(3);
- “authority foster parent” has the meaning given by Article 2(2) of the Children Order;
- “body” includes an unincorporated body;
- “care order” has the meaning given by Article 2(2) of the Children Order;
- “child”, except where used to express a relationship, means a person who has not attained the age of 18 years;
- “child assessment order” has the meaning given in Article 2(2) of the Children Order;
- “Children Order” means the Children (Northern Ireland) Order 1995;
- “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;
- “Convention adoption” has the meaning given in section 65(1)(c);
- “Convention adoption order” means an adoption order which, by virtue of regulations under section 1 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (regulations giving effect to the Convention), is made as a Convention adoption order;
- “Convention country” means a country or territory in which the Convention is in force;
- “court” has the meaning given by section 115(1);
- “the Department” means the Department of Health;
- “fee” includes expenses;
- “guardian” has the same meaning as in the Children Order and includes a special guardian within the meaning of the Children Order;
- “information” means information recorded in any form;
- “interim care order” means an interim care order under Article 57 of the Children Order;
- “notice” means a notice in writing;
- “notice of intention to adopt” has the meaning given in section 41(2);
- “overseas adoption” has the meaning given in section 90(1);
- “parental responsibility” has the meaning given in Article 6 of the Children Order;
- “placement order” has the meaning given in section 18(1);

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“placing a child for adoption” and “placed for adoption” have the meanings given in section 15(5) and section 16(4);

“prescribed”, except in sections 51(7) and (8) and 156(5) and paragraphs 1(4), 3, 4 and 6 of Schedule 1 (where it means prescribed by rules of court), means prescribed by regulations;

“prohibited steps order” has the meaning given in Article 8(1) of the Children Order;

“public body” means a body established by or under any statutory provision;

“regulations” means regulations made by the Department except where they are required to be made by the Department of Finance;

“relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by marriage or civil partnership;

“residence order” has the meaning given in Article 8(1) of the Children Order;

“RQIA” means the Health and Social Care Regulation and Quality Improvement Authority;

“rules of court” has the meaning given in section 156(1);

“Scottish adoption order” means an order made, or having effect as if made, under section 28(1) of the Adoption and Children (Scotland) Act 2007 or section 12 of the Adoption (Scotland) Act 1978;

“specific issue order” has the meaning given in Article 8(1) of the Children Order;

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“supervision order” has the meaning given in Article 49(1) of the Children Order;

“voluntary organisation” means a body (other than a public body) the activities of which are not carried on for profit.

(2) Any power conferred by this Act to prescribe a fee by regulations includes power to prescribe—

- (a) a fee not exceeding a prescribed amount;
- (b) a fee calculated in accordance with the regulations;
- (c) a fee determined by the person to whom it is payable, being a fee of a reasonable amount.

(3) In this Act “couple” means—

- (a) a married couple;
- (b) two persons who are civil partners of each other; or
- (c) two persons (whether of different sexes or the same sex) living as partners in an enduring family relationship.

(4) Subsection (3)(c) does not include two people one of whom is the other's parent, grandparent, sister, brother, aunt or uncle.

(5) References to relationships in subsection (4)—

(a) are to relationships of the full blood or half blood or, in the case of an adopted person, such of those relationships as would exist but for adoption; and

(b) include the relationship of a child with the child's adoptive, or former adoptive, parents,

but do not include any other adoptive relationships.

(6) For the purposes of this Act, a person is the partner of a child's parent if the person and the parent are a couple but the person is not the child's parent.

### **Commencement**

**160.**—(1) Except as provided by subsection (2), the provisions of this Act come into operation on such day or days as the Department may by order appoint.

(2) This section and sections 155, 157, 159 and 161 come into operation on the day after the day on which this Act receives Royal Assent.

### **Short title**

**161.** This Act may be cited as the Adoption and Children Act (Northern Ireland) 2022.