



Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 2

THE ADOPTION SERVICE

Regulations

9 General power to regulate adoption etc. agencies

- (1) Regulations may make provision for any purpose relating to—
 - (a) the exercise by local authorities or voluntary adoption agencies of their functions in relation to adoption, or
 - (b) the exercise by adoption support 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, 45, 54, 56 to 65 and 98 or by any other powers exercisable in respect of local authorities, voluntary adoption agencies or adoption support 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.
- (4) In this section and section 10, “voluntary adoption agency” means a voluntary organisation which is an adoption society.

Commencement Information

II S. 9 in force at 7.2.2004 for W. by S.I. 2004/252, art. 2(b)

Status: Point in time view as at 31/03/2010.

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12 S. 9 in force at 7.12.2004 for E. by S.I. 2004/3203, art. 2(1)(c)

10 Management etc. of agencies

- (1) In relation to local authorities, voluntary adoption agencies and adoption support agencies, regulations under section 9 may make provision as to—
 - (a) the persons who are fit to work for them for the purposes of the functions mentioned in section 9(1),
 - (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, one of the registers maintained under section 56(1) of the Care Standards Act 2000 (c. 14) (registration of social care workers).
- (3) In relation to voluntary adoption agencies and adoption support agencies, regulations under section 9 may—
 - (a) make provision as to the persons who are fit to manage an agency, including provision prohibiting persons from doing so unless they are registered in, or in a particular part of, one of the registers referred to in subsection (2),
 - (b) impose requirements as to the financial position of an agency,
 - (c) make provision requiring the appointment of a manager,
 - (d) in the case of a voluntary adoption agency, make provision for securing the welfare of children placed by the agency, including provision as to the promotion and protection of their health,
 - (e) in the case of an adoption support agency, make provision as to the persons who are fit to carry on the agency.
- (4) Regulations under section 9 may make provision as to the conduct of voluntary adoption agencies and adoption support agencies, and may in particular make provision—
 - (a) as to the facilities and services to be provided by an agency,
 - (b) as to the keeping of accounts,
 - (c) as to the notification to the registration authority of events occurring in premises used for the purposes of an agency,
 - (d) as to the giving of notice to the registration authority of periods during which the manager of an agency 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 agency during a period when its manager is absent,
 - (f) as to the giving of notice to the registration authority of any intended change in the identity of the manager,
 - (g) as to the giving of notice to the registration authority of changes in the ownership of an agency or the identity of its officers,

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- (h) requiring the payment of a prescribed fee to the registration authority 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 agency and requiring the agency or manager to take steps for publicising the arrangements.

Commencement Information

- I3** S. 10 in force at 7.2.2004 for W. by S.I. 2004/252, art. 2(b)
- I4** S. 10 in force at 7.12.2004 for E. by S.I. 2004/3203, art. 2(1)(d)

11 Fees

- (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 Adoption Service (including the Adoption Services in Scotland and Northern Ireland),
 - (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 local 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 British Islands.
- (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

- I5** S. 11 in force at 7.2.2004 for W. by S.I. 2004/252, art. 2(b)
- I6** S. 11 in force at 7.12.2004 for E. by S.I. 2004/3203, art. 2(1)(e)

12 Independent review of determinations

- (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 ^{F1}... the appropriate Minister for a review of that determination [^{F2}by a panel constituted by that Minister].
- (2) The regulations must make provision as to the description of determinations which are qualifying determinations for the purposes of subsection (1).
- (3) The regulations may include provision as to—

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- (a) the duties and powers of a panel ^{F3}...
 - (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 [^{F4}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.
- [^{F5}(3A) Regulations made by virtue of subsection (3)(e) may impose a duty to pay to the appropriate Minister such sum as that Minister may determine.
- (3B) The appropriate Minister must secure that, taking one financial year with another, the aggregate of the sums which become payable to him under regulations made by virtue of subsection (3A) does not exceed the cost to him of performing his independent review functions.]
- (4) The appropriate Minister may make an arrangement with an organisation under which [^{F6}independent review functions] are performed by the organisation on his behalf.
- (5) If the appropriate Minister makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by the appropriate Minister.
- (6) The arrangement may include provision for payments to be made to the organisation by the appropriate Minister.
- [^{F7}(6A) Payments made by the appropriate Minister in accordance with such provision shall be taken into account in determining (for the purpose of subsection (3B)) the cost to that Minister of performing his independent review functions.]
- (7) Where the appropriate Minister is the Assembly, subsections (4) and (6) also apply as if references to an organisation included references to the Secretary of State.
- (8) In this section [^{F8}—
- “financial year” means a period of twelve months ending with 31st March,
 - “independent review function” means a function conferred or imposed on an appropriate Minister by regulations made by virtue of this section],
 - “organisation” includes a public body and a private or voluntary organisation.

Textual Amendments

- F1** Words in s. 12(1) repealed (12.2.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 34(2)(a), 44(4), [Sch. 4](#); S.I. 2009/268, art. 3(1)(f)(ii) (with art. 4); S.I. 2010/749, art. 2(b)
- F2** Words in s. 12(1) inserted (12.2.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 34(2)(b), 44(4); S.I. 2009/268, art. 3(1)(f)(ii) (with art. 4); S.I. 2010/749, art. 2(b)
- F3** Words in s. 12(3)(a) repealed (12.2.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 34(3), 44(4), [Sch. 4](#); S.I. 2009/268, art. 3(1)(f)(ii) (with art. 4); S.I. 2010/749, art. 2(b)
- F4** Words in s. 12(3)(d) substituted (1.3.2005 for E., 30.12.2005 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 57, 67(7)(e); S.I. 2005/394, art. 2(1)(i); S.I. 2005/3363, art. 2

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- F5** S. 12(3A)(3B) inserted (12.2.2009 for E. for specified purposes, 1.4.2009 for E. in so far as not already in force, 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 34\(4\)](#), 44(4); S.I. 2009/268, [art. 3\(1\)\(f\)\(iii\)\(2\)\(a\)](#) (with [art. 4](#)); S.I. 2010/749, [art. 2\(b\)](#)
- F6** Words in s. 12(4) substituted (1.4.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 34\(5\)](#), 44(4); S.I. 2009/268, [art. 3\(2\)\(a\)](#); S.I. 2010/749, [art. 2\(b\)](#)
- F7** S. 12(6A) inserted (1.4.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 34\(6\)](#), 44(4); S.I. 2009/268, [art. 3\(2\)\(a\)](#); S.I. 2010/749, [art. 2\(b\)](#)
- F8** Words in s. 12(8) inserted (1.4.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 34\(7\)](#), 44(4); S.I. 2009/268, [art. 3\(2\)\(a\)](#); S.I. 2010/749, [art. 2\(b\)](#)

Commencement Information

- I7** S. 12(1)-(3) in force at 7.2.2004 for W. by [S.I. 2004/252](#), [art. 2\(b\)](#)
- I8** S. 12(1)-(3) in force at 7.12.2004 for specified purposes for E. by [S.I. 2004/3203](#), [art. 2\(1\)\(m\)\(iii\)](#)
- I9** S. 12(1)-(3) in force at 30.12.2005 for E. in so far as not already in force by [S.I. 2005/2213](#), [art. 3\(f\)](#) (with savings and transitional provisions in [S.I. 2005/2897](#), [arts. 3-16](#))
- I10** S. 12(4)-(8) in force at 30.12.2005 for E. by [S.I. 2005/2213](#), [art. 3\(f\)](#) (with savings and transitional provisions in [S.I. 2005/2897](#), [arts. 3-16](#))
- I11** S. 12(4)-(8) in force at 30.12.2005 for W. by [S.I. 2005/3112](#), [art. 2\(c\)](#)

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