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Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 3

PLACEMENT FOR ADOPTION AND ADOPTION ORDERS

VALID FROM 07/02/2004

Disclosure of information in relation to a person's adoption

56 Information to be kept about a person's adoption

- (1) In relation to an adopted person, regulations may prescribe—
 - (a) the information which an adoption agency must keep in relation to his adoption,
 - (b) the form and manner in which it must keep that information.
- (2) Below in this group of sections (that is, this section and sections 57 to 65), any information kept by an adoption agency by virtue of subsection (1)(a) is referred to as section 56 information.
- (3) Regulations may provide for the transfer in prescribed circumstances of information held, or previously held, by an adoption agency to another adoption agency.

57 Restrictions on disclosure of protected etc. information

- (1) Any section 56 information kept by an adoption agency which—
 - (a) is about an adopted person or any other person, and

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(b) is or includes identifying information about the person in question, may only be disclosed by the agency to a person (other than the person the information is about) in pursuance of this group of sections.

(2) Any information kept by an adoption agency—

(a) which the agency has obtained from the Registrar General on an application under section 79(5) and any other information which would enable the adopted person to obtain a certified copy of the record of his birth, or

(b) which is information about an entry relating to the adopted person in the Adoption Contact Register,

may only be disclosed to a person by the agency in pursuance of this group of sections.

(3) In this group of sections, information the disclosure of which to a person is restricted by virtue of subsection (1) or (2) is referred to (in relation to him) as protected information.

(4) Identifying information about a person means information which, whether taken on its own or together with other information disclosed by an adoption agency, identifies the person or enables the person to be identified.

(5) This section does not prevent the disclosure of protected information in pursuance of a prescribed agreement to which the adoption agency is a party.

(6) Regulations may authorise or require an adoption agency to disclose protected information to a person who is not an adopted person.

58 Disclosure of other information

(1) This section applies to any section 56 information other than protected information.

(2) An adoption agency may for the purposes of its functions disclose to any person in accordance with prescribed arrangements any information to which this section applies.

(3) An adoption agency must, in prescribed circumstances, disclose prescribed information to a prescribed person.

59 Offence

Regulations may provide that a registered adoption society which discloses any information in contravention of section 57 is to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

60 Disclosing information to adopted adult

(1) This section applies to an adopted person who has attained the age of 18 years.

(2) The adopted person has the right, at his request, to receive from the appropriate adoption agency—

(a) any information which would enable him to obtain a certified copy of the record of his birth, unless the High Court orders otherwise,

(b) any prescribed information disclosed to the adopters by the agency by virtue of section 54.

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- (3) The High Court may make an order under subsection (2)(a), on an application by the appropriate adoption agency, if satisfied that the circumstances are exceptional.
- (4) The adopted person also has the right, at his request, to receive from the court which made the adoption order a copy of any prescribed document or prescribed order relating to the adoption.
- (5) Subsection (4) does not apply to a document or order so far as it contains information which is protected information.

61 Disclosing protected information about adults

- (1) This section applies where—
 - (a) a person applies to the appropriate adoption agency for protected information to be disclosed to him, and
 - (b) none of the information is about a person who is a child at the time of the application.
- (2) The agency is not required to proceed with the application unless it considers it appropriate to do so.
- (3) If the agency does proceed with the application it must take all reasonable steps to obtain the views of any person the information is about as to the disclosure of the information about him.
- (4) The agency may then disclose the information if it considers it appropriate to do so.
- (5) In deciding whether it is appropriate to proceed with the application or disclose the information, the agency must consider—
 - (a) the welfare of the adopted person,
 - (b) any views obtained under subsection (3),
 - (c) any prescribed matters,and all the other circumstances of the case.
- (6) This section does not apply to a request for information under section 60(2) or to a request for information which the agency is authorised or required to disclose in pursuance of regulations made by virtue of section 57(6).

62 Disclosing protected information about children

- (1) This section applies where—
 - (a) a person applies to the appropriate adoption agency for protected information to be disclosed to him, and
 - (b) any of the information is about a person who is a child at the time of the application.
- (2) The agency is not required to proceed with the application unless it considers it appropriate to do so.
- (3) If the agency does proceed with the application, then, so far as the information is about a person who is at the time a child, the agency must take all reasonable steps to obtain—
 - (a) the views of any parent or guardian of the child, and

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- (b) the views of the child, if the agency considers it appropriate to do so having regard to his age and understanding and to all the other circumstances of the case,
 as to the disclosure of the information.
- (4) And, so far as the information is about a person who has at the time attained the age of 18 years, the agency must take all reasonable steps to obtain his views as to the disclosure of the information.
- (5) The agency may then disclose the information if it considers it appropriate to do so.
- (6) In deciding whether it is appropriate to proceed with the application, or disclose the information, where any of the information is about a person who is at the time a child—
- (a) if the child is an adopted child, the child's welfare must be the paramount consideration,
 - (b) in the case of any other child, the agency must have particular regard to the child's welfare.
- (7) And, in deciding whether it is appropriate to proceed with the application or disclose the information, the agency must consider—
- (a) the welfare of the adopted person (where subsection (6)(a) does not apply),
 - (b) any views obtained under subsection (3) or (4),
 - (c) any prescribed matters,
- and all the other circumstances of the case.
- (8) This section does not apply to a request for information under section 60(2) or to a request for information which the agency is authorised or required to disclose in pursuance of regulations made by virtue of section 57(6).

63 Counselling

- (1) Regulations may require adoption agencies to give information about the availability of counselling to persons—
- (a) seeking information from them in pursuance of this group of sections,
 - (b) considering objecting or consenting to the disclosure of information by the agency in pursuance of this group of sections, or
 - (c) considering entering with the agency into an agreement prescribed for the purposes of section 57(5).
- (2) Regulations may require adoption agencies to make arrangements to secure the provision of counselling for persons seeking information from them in prescribed circumstances in pursuance of this group of sections.
- (3) The regulations may authorise adoption agencies—
- (a) to disclose information which is required for the purposes of such counselling to the persons providing the counselling,
 - (b) where the person providing the counselling is outside the United Kingdom, to require a prescribed fee to be paid.
- (4) The regulations may require any of the following persons to provide counselling for the purposes of arrangements under subsection (2)—

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- (a) a local authority, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) or a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)),
 - (b) a registered adoption society, an organisation within section 144(3)(b) or an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)),
 - (c) an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000 (c. 14).
- (5) For the purposes of subsection (4), where the functions of a Health and Social Services Board are exercisable by a Health and Social Services Trust, the reference in sub-paragraph (a) to a Board is to be read as a reference to the Health and Social Services Trust.

64 Other provision to be made by regulations

- (1) Regulations may make provision for the purposes of this group of sections, including provision as to—
 - (a) the performance by adoption agencies of their functions,
 - (b) the manner in which information may be received, and
 - (c) the matters mentioned below in this section.
- (2) Regulations may prescribe—
 - (a) the manner in which agreements made by virtue of section 57(5) are to be recorded,
 - (b) the information to be provided by any person on an application for the disclosure of information under this group of sections.
- (3) Regulations may require adoption agencies—
 - (a) to give to prescribed persons prescribed information about the rights or opportunities to obtain information, or to give their views as to its disclosure, given by this group of sections,
 - (b) to seek prescribed information from, or give prescribed information to, the Registrar General in prescribed circumstances.
- (4) Regulations may require the Registrar General—
 - (a) to disclose to any person (including an adopted person) at his request any information which the person requires to assist him to make contact with the adoption agency which is the appropriate adoption agency in the case of an adopted person specified in the request (or, as the case may be, in the applicant's case),
 - (b) to disclose to the appropriate adoption agency any information which the agency requires about any entry relating to the adopted person on the Adoption Contact Register.
- (5) Regulations may provide for the payment of a prescribed fee in respect of the disclosure in prescribed circumstances of any information in pursuance of section 60, 61 or 62; but an adopted person may not be required to pay any fee in respect of any information disclosed to him in relation to any person who (but for his adoption) would be related to him by blood (including half-blood) or marriage.

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- (6) Regulations may provide for the payment of a prescribed fee by an adoption agency obtaining information under subsection (4)(b).

65 Sections 56 to 65: interpretation

- (1) In this group of sections—

“appropriate adoption agency”, in relation to an adopted person or to information relating to his adoption, means—

- (a) if the person was placed for adoption by an adoption agency, that agency or (if different) the agency which keeps the information in relation to his adoption,
- (b) in any other case, the local authority to which notice of intention to adopt was given,

“prescribed” means prescribed by subordinate legislation,

“regulations” means regulations under section 9,

“subordinate legislation” means regulations or, in relation to information to be given by a court, rules.

- (2) But—

- (a) regulations under section 63(2) imposing any requirement on a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), or an organisation within section 144(3)(b), are to be made by the Scottish Ministers,
- (b) regulations under section 63(2) imposing any requirement on a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/ 1265 (N.I. 14)), or an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)), are to be made by the Department of Health, Social Services and Public Safety.

- (3) The power of the Scottish Ministers or of the Department of Health, Social Services and Public Safety to make regulations under section 63(2) includes power to make—

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

which the person making the regulations considers necessary or expedient.

- (4) Regulations prescribing any fee by virtue of section 64(6) require the approval of the Chancellor of the Exchequer.

- (5) Regulations making any provision as to the manner in which any application is to be made for the disclosure of information by the Registrar General require his approval.

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