

**2005 No. 3504**

**CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES**

**SOCIAL CARE, ENGLAND AND WALES**

**The Adoption and Children Act 2002 (Consequential Amendments) Order 2005**

<i>Made</i> - - - -	<i>20th December 2005</i>
<i>Laid before Parliament</i>	<i>22nd December 2005</i>
<i>Coming into force</i> - -	<i>30th December 2005</i>

The Secretary of State for Education and Skills, in exercise of the powers conferred by section 142(1), (2) and (6) of the Adoption and Children Act 2002(a) makes the following Order:—

**Citation and commencement**

1. This Order may be cited as the Adoption and Children Act 2002 (Consequential Amendments) Order 2005 and comes into force on 30<sup>th</sup> December 2005.

**Data Protection - Subject Access**

2.—(1) In Part 2 of the Schedule (exemptions from section 7 – enactments and instruments extending to England and Wales) to the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000(b) for paragraph (a) substitute—

“(a) *Adoption records and reports*

Sections 57 to 62, 77 and 79 of, and Schedule 2 to, the Adoption and Children Act 2002(c).

Regulation 14 of the Adoption Agencies Regulations 1983(d).

Regulation 41 of the Adoption Agencies Regulations 2005(e).

Regulation 42 of the Adoption Agencies (Wales) Regulations 2005(f).

Rules 5, 6, 9, 17, 18, 21, 22 and 53 of the Adoption Rules 1984(g).

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(a) 2002 c.38.

(b) S.I. 2000/419. Part 2 of the Schedule was amended by S.I. 2000/1865.

(c) Section 79 of the Adoption and Children Act 2002 (c.38) was amended by the Civil Partnership Act 2004 (c.33).

(d) S.I. 1983/1964. Regulation 14 was amended by S.I. 1997/649 and S.I. 1997/2308.

(e) S.I. 2005/389.

(f) S.I. 2005/1313 (W.95).

(g) S.I. 1984/265. These provisions of the Adoption Rules 1984 were amended by S.I. 1991/1880 and S.I. 2001/819 and will be revoked with effect from 30<sup>th</sup> December 2005.

Rules 5, 6, 9, 17, 18, 21, 22 and 32 of the Magistrates' Courts (Adoption) Rules 1984(a).

Rules 24, 29, 30, 65, 72, 73, 77, 78 and 83 of the Family Procedure (Adoption) Rules 2005(b).”.

(2) In the Schedule (personal data to which the Order applies) to the Data Protection (Subject Access Modification) (Social Work) Order 2000(c) insert after paragraph (q)—

“(r) data processed for the purposes of the functions of the appropriate Minister pursuant to section 12 of the Adoption and Children Act 2002 (independent review of determinations);”.

### Community Legal Service

3.—(1) In each of the provisions mentioned in paragraph (2) the definition of “family proceedings” is amended by inserting after sub-paragraph (g)—

“(ga) the Adoption and Children Act 2002;”.

(2) The provisions are—

- (a) article 2 of the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001(d);
- (b) article 2 of the Community Legal Service (Funding) Order 2000(e);
- (c) regulation 2 of the Community Legal Service (Financial) Regulations 2000(f);
- (d) regulation 21 of the Community Legal Service (Costs) Regulations 2000(g).

(3) In paragraph 2 of Schedule 2 to the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001(h) after “applications to free for adoption” insert “or applications for a placement order”.

### Non-Contentious Probate Rules

4. Rule 32(1) of the Non-Contentious Probate Rules 1987(i) is amended as follows—

(a) in sub-paragraph (a)(iii) after “the Adoption Act 1976” insert—

“or section 46(1) of the Adoption and Children Act 2002”;

(b) after sub-paragraph (aa) insert—

“(ab) a step-parent of the minor who has parental responsibility for him in accordance with section 4A of the Children Act 1989(j); or”;

(c) after sub-paragraph (b) insert—

“(ba) a special guardian of the minor who is appointed in accordance with section 14A of the Children Act 1989(k); or

(bb) an adoption agency which has parental responsibility for the minor by virtue of section 25(2) of the Adoption and Children Act 2002; or”.

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(a) S.I. 1984/611. These provisions of the Magistrates' Court (Adoption) Rules 1984 were revoked by S.I. 2005/2804; for transitional provisions and savings see articles 4(b), 5 and 6. These provisions were also amended by S.I. 1989/384, S.I. 2001/615, S.I. 2001/820 and S.I. 2005/617.

(b) S.I. 2005/2795 (L.22).

(c) S.I. 2000/415. The Schedule to the Data Protection (Subject Access Modification) (Social Work) Order 2000 was amended by S.I. 2002/2469, S.I. 2002/3220, S.I. 2004/696 and S.I. 2005/467.

(d) S.I. 2001/1077. The definition of “family proceedings” was amended by S.I. 2003/2590 and S.I. 2005/2114.

(e) S.I. 2000/627. The definition of “family proceedings” was amended by S.I. 2005/2114.

(f) S.I. 2000/516.

(g) S.I. 2000/441. The definition of “family proceedings” was amended by S.I. 2005/2114.

(h) Paragraph 2 of Schedule 2 to the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001 (S.I. 2001/1077) was amended by S.I. 2003/2590.

(i) S.I. 1987/2024. Rule 32(1) of the Non-Contentious Probate Rules 1987 was amended by S.I. 1991/1876 and S.I. 1998/1903.

(j) 1989 c.41. Section 4A of the Children Act 1989 was inserted by section 112 of the Adoption and Children Act 2002 (c.38) and amended by section 75 of the Civil Partnership Act 2004 (c.33).

(k) Section 14A of the Children Act 1989 was inserted by section 115(1) of the Adoption and Children Act 2002 (c.38).

**Amendment to the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000**

5. In paragraph (a)(iii) of regulation 6 (health related functions of local authorities) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000(a) for “sections 1 and 2 of the Adoption Act 1976” substitute “section 3 of the Adoption and Children Act 2002”.

**Amendment of the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002**

6. In regulation 3 (requirements for membership of lay panel) of the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(b)—

- (a) insert in paragraphs (2)(a)(i) and (5)(c) “, or the Adoption and Children Act 2002,” after “the Adoption Act 1976”; and
- (b) in paragraph (5)(ee) “, or an adoption society registered under Part 2 of the 2000 Act(c)” after “the Adoption Act 1976”.

**Amendment of the Adoption and Children Act 2002 (Commencement No. 10 Transitional and Savings Provisions) Order 2005**

7. In regulation 16 of the Adoption and Children Act 2002 (Commencement No. 10 Transitional and Savings Provisions) Order 2005(d) for “4” substitute “4A”.

20th December 2005

*Maria Eagle*  
Parliamentary Under Secretary of State  
Department for Education and Skills

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(a) S.I. 2000/617.  
(b) S.I. 2002/816, amended by S.I. 2003/1060.  
(c) 2000 c. 14.  
(d) S.I. 2005/2897.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Consequent on the commencement of the Adoption and Children Act 2002, this Order updates relevant references in the following statutory instruments—

- (i) the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 and the Data Protection (Subject Access Modification) (Social Work) Order 2000, which relate to subject access requests under the Data Protection Act 1998 (article 2);
- (ii) four statutory instruments that relate to the Community Legal Service, to include proceedings under the Adoption and Children Act 2002 within the definition of family proceedings and add a reference to placement orders (article 3);
- (iii) the Non-Contentious Probate Rules 1987 to reflect the additional means by which a step-parent may acquire parental responsibility and the introduction of special guardianship orders (article 4);
- (iv) the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (article 5); and
- (v) the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002 (article 6).

Article 7 amends article 16 of the Adoption and Children Act 2002 (Commencement No. 10 Transitional and Savings Provisions) Order 2005 by adding Part 4A to the Parts of the Voluntary Adoption Agencies and Adoption Agencies (Miscellaneous Amendments) Regulations 2003(a).

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(a) S.I. 2003/367. Part 4A was inserted by regulation 2(4) of, and the Schedule to, the Voluntary Adoption Agencies (Amendment) Regulations 2005 (S.I. 2005/3341).

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