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*Status: Point in time view as at 10/11/2015.*

*Changes to legislation: There are currently no known outstanding effects for the The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005. (See end of Document for details)*

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STATUTORY INSTRUMENTS

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**2005 No. 890**

**SOCIAL CARE, ENGLAND**  
**CHILDREN AND YOUNG PERSONS, ENGLAND**

The Adoption Information and Intermediary Services  
(Pre-Commencement Adoptions) Regulations 2005

*Made* - - - - 22nd March 2005  
*Laid before Parliament* 7th April 2005  
*Coming into force* - - 30th December 2005

The Secretary of State, in exercise of the powers conferred on her by sections 2(6), 9(1)(a) and (b) and (3), 98, 140(7) and (8) and 144(2) of the Adoption and Children Act 2002<sup>(1)</sup>, with the approval of the Chancellor of the Exchequer<sup>(2)</sup>, hereby makes the following Regulations:—

PART 1

INTRODUCTORY

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 and shall come into force on 30th December 2005.

(2) These Regulations apply to England only.

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**Commencement Information**

**II** [Reg. 1](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

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- (1) [2002 c. 38](#). These powers are exercisable by the appropriate Minister, who is defined in section 144(1) of the Act, in relation to England, as the Secretary of State.
- (2) The approval of the Chancellor of the Exchequer is required in relation to regulations which relate to the Registrar General by virtue of section 98(6) of the Act.

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## Interpretation

### 2. In these Regulations—

“the Act” means the Adoption and Children Act 2002;

[<sup>F1</sup>“adopted person” means a person who was adopted before 30th December 2005 and has attained the age of 18 years;]

[<sup>F2</sup>“applicant” means a person who makes an application under regulation 5 and is—

- (a) an adopted person;
- (b) a person with a prescribed relationship; or
- (c) a relative of an adopted person;]

“the appropriate adoption agency” has the same meaning as in section 65(1) of the Act;

[<sup>F3</sup>“corresponding Welsh provision” means in relation to a Part or a regulation of these Regulations, regulations made by the Welsh Ministers under section 9 of the Act which corresponds to that Part or regulation;]

“identifying information” has the meaning given in regulation 7;

“intermediary agency” and “intermediary service” have the meaning given in regulation 4;

[<sup>F4</sup>“prescribed relationship” has the meaning given in regulation 2A;]

“registered adoption support agency” means an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000(3);

“relative”, in relation to an adopted person, has the same meaning as in section 98 of the Act;

“subject”, in relation to an application under regulation 5, is a person with whom the applicant seeks contact.

### Textual Amendments

- F1** Words in [reg. 2](#) inserted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **3(a)**
- F2** Words in [reg. 2](#) substituted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **3(b)**
- F3** Words in [reg. 2](#) inserted (10.11.2015) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2015 \(S.I. 2015/1685\)](#), regs. 1, **3**
- F4** Words in [reg. 2](#) inserted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **3(c)**

### Commencement Information

- I2** [Reg. 2](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

### [<sup>F5</sup>Prescribed relationship

**2A.** For the purposes of section 98(1A) of the Act, a prescribed relationship is a relationship whereby a person (who is not a relative of the adopted person) is related to an adopted person—

- (a) by blood (including half-blood), marriage or civil partnership; or
- (b) by virtue of the adopted person’s adoption.]

#### Textual Amendments

- F5** Reg. 2A inserted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, 4

#### Provision of intermediary services

3.—(1) A registered adoption support agency or an adoption agency may provide an intermediary service.

(2) The service must be provided in accordance with these Regulations.

(3) An intermediary service is an adoption support service for the purposes of section 2(6) of the Act.

#### Commencement Information

- I3** Reg. 3 in force at 30.12.2005, see [reg. 1\(1\)](#)

#### Meaning of “intermediary service” and “intermediary agency”

4.—(1) For the purposes of these Regulations an intermediary service is a service provided for the purposes of—

- [<sup>F6</sup>(a) assisting adopted persons to obtain information in relation to their adoption;  
(b) facilitating contact between adopted persons and their relatives; and  
(c) facilitating contact between persons with a prescribed relationship to an adopted person and relatives of the adopted person.]

(2) But an adoption agency does not provide an intermediary service for the purposes of these Regulations if it is the appropriate adoption agency in relation to an adopted person and only provides information in relation to that person’s adoption.

(3) A registered adoption support agency or an adoption agency that provides an intermediary service is referred to in these Regulations as an “intermediary agency”.

#### Textual Amendments

- F6** Reg. 4(1)(a)-(c) substituted for reg. 4(1)(a)(b) (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, 5

#### Commencement Information

- I4** Reg. 4 in force at 30.12.2005, see [reg. 1\(1\)](#)

#### [<sup>F7</sup>Adoption support agencies that were formerly adoption agencies

4A. Where, by virtue of regulation 16(2A) of the Adoption Agencies Regulations 1983, an adoption support agency keeps the information in relation to the adoption of a person adopted before 30th December 2005, any reference in these Regulations to the appropriate adoption agency in relation to that person shall be taken to be a reference to that adoption support agency.]

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*Changes to legislation: There are currently no known outstanding effects for the The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005. (See end of Document for details)*

**Textual Amendments**

**F7** Reg. 4A inserted (30.12.2005) by The Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2720), regs. 1(1), 35

**PART 2**

**APPLICATIONS FOR INTERMEDIARY SERVICES**

**Applications that may be accepted**

- 5.—<sup>F8</sup>(1) Subject to paragraph (3) an intermediary agency may accept an application from—
  - (a) an adopted person for assistance in contacting a relative of his;
  - (b) a relative of an adopted person for assistance in contacting—
    - (i) the adopted person; or
    - (ii) a person with a prescribed relationship to the adopted person; or
  - (c) a person with a prescribed relationship to an adopted person for assistance in contacting a relative of an adopted person.]

<sup>F9</sup>(2) .....

(3) The applicant and the person with whom the applicant seeks contact (“the subject”) must be aged 18 or over.

**Textual Amendments**

**F8** Reg. 5(1) substituted (31.10.2014) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, 6(a)

**F9** Reg. 5(2) omitted (31.10.2014) by virtue of The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, 6(b)

**Commencement Information**

**I5** Reg. 5 in force at 30.12.2005, see **reg. 1(1)**

**[<sup>F10</sup>Restrictions on proceeding with an application**

**5A.—**(1) Where an intermediary agency accepts an application from a relative of an adopted person for assistance in contacting the adopted person, it must not proceed with the application if a veto applies under regulation 8(1), except in the circumstances referred to in regulation 8(1)(b)(ii).

(2) Where an intermediary agency accepts an application from a relative of an adopted person for assistance in contacting a person with a prescribed relationship to the adopted person, it must not proceed with an application if—

- (a) a veto applies under regulation 8(1), except in the circumstances referred to in regulation 8(1)(b)(ii); or
- (b) the adopted person does not consent to the application proceeding.

(3) Subject to paragraphs (4) to (6), where an intermediary agency accepts an application from a person with a prescribed relationship to an adopted person for assistance in contacting a relative of

the adopted person, it must not proceed with the application if the adopted person does not consent to the application proceeding.

- (4) An intermediary agency may proceed with an application under paragraph (3)—
- (a) if the intermediary agency has taken all reasonable steps to locate the adopted person but has been unable to do so; or
- (b) where—
- (i) the applicant is either the spouse, child, grandchild or great grandchild of the adopted person; and
- (ii) the applicant is seeking to contact the relative of the adopted person only to obtain information about the medical history of the adopted person's relatives.

(5) Where paragraph (4)(b) applies, the intermediary agency must not disclose any information which, whether taken on its own or together with other information possessed by the person to whom it is being disclosed, would enable the adopted person, any relative of the adopted person or any person with a prescribed relationship to the adopted person to be identified or traced.

(6) Any requirement under this regulation for the adopted person to consent to an application proceeding does not apply if—

- (a) the adopted person has died; or
- (b) the intermediary agency determines that the adopted person is incapable of giving informed consent.

(7) Where the consent of the adopted person is required under this regulation, the intermediary agency must take all reasonable steps to ensure that the adopted person has sufficient information to make an informed decision.]

#### **Textual Amendments**

**F10** [Reg. 5A](#) inserted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, 7

#### **No obligation to proceed if not appropriate**

**6.—(1)** An intermediary agency that accepts an application under these Regulations is not required to proceed with it, or having begun to proceed with it is not required to continue, if the intermediary agency considers that it would not be appropriate to do so.

(2) In deciding whether it is appropriate to proceed (or continue proceeding) with an application the intermediary agency must have regard to—

- (a) the welfare of—
- (i) the applicant;
- (ii) the subject; and
- (iii) any other persons who may be identified or otherwise affected by the application;
- (b) any views of the appropriate adoption agency obtained under regulation 12;
- (c) any information obtained from the Adoption Contact Register under regulation 13,

and all the other circumstances of the case.

(3) In relation to any decision under paragraph (2) the intermediary agency must have particular regard to the welfare of any person mentioned in paragraph (2)(a)(iii) who is under the age of 18.

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(4) If, at any time, the intermediary agency ascertains that the subject of an application is under the age of 18 it must not proceed further with the application in relation to that subject.

**Commencement Information**

**I6** Reg. 6 in force at 30.12.2005, see **reg. 1(1)**

**Consent of subject to disclosure etc.**

7.—(1) Subject to paragraph (2) an intermediary agency must not disclose to the applicant any identifying information about the subject without the subject’s consent.

(2) If the subject has died or the agency determines that he is incapable of giving informed consent, the agency may disclose such identifying information about him to the applicant as it considers appropriate, having regard to the matters referred to in regulation 6(2).

(3) The agency must take all reasonable steps to ensure that any person whose consent to disclosure is required under this regulation has sufficient information to make an informed decision as to whether to give his consent.

(4) In this regulation and in regulations 9 and 12, “identifying information” means information which, whether taken on its own or together with other information possessed by the applicant, enables the subject to be identified or traced.

**Commencement Information**

**I7** Reg. 7 in force at 30.12.2005, see **reg. 1(1)**

**Veto by an adopted person**

8.—(1) A veto applies in relation to an application under regulation 5 <sup>[F11]</sup>or under corresponding Welsh provision] where—

<sup>[F12]</sup>(a) the subject is either the adopted person or a person with a prescribed relationship to the adopted person; and]

(b) <sup>[F13]</sup>the adopted person] has notified the appropriate adoption agency in writing—

(i) that he does not wish to be contacted by an intermediary agency in relation to an application under these Regulations; or

(ii) that he only wishes to be contacted in specified circumstances.

(2) Where the appropriate adoption agency is notified of a veto under paragraph (1) it must keep a written record of it on the adopted person’s case record and ensure that it is made known to any intermediary agency that contacts it in relation to an application under these Regulations.

<sup>F14</sup>(3) .....

<sup>[F15]</sup>(4) A veto which applies by virtue of a notification given before 31st October 2014 is deemed to apply to any application made by a relative of the adopted person under these Regulations.]

**Textual Amendments**

**F11** Words in **reg. 8(1)** inserted (10.11.2015) by **The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2015 (S.I. 2015/1685), regs. 1, 4**

- F12** Reg. 8(1)(a) substituted (31.10.2014) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, **8(a)**
- F13** Words in reg. 8(1)(b) substituted (31.10.2014) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, **8(b)**
- F14** Reg. 8(3) omitted (31.10.2014) by virtue of The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, **8(c)**
- F15** Reg. 8(4) inserted (31.10.2014) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, **8(d)**

#### Commencement Information

- I8** Reg. 8 in force at 30.12.2005, see **reg. 1(1)**

#### Provision of background information where consent refused etc.

[<sup>F16</sup>9. Nothing in these Regulations prevents the intermediary agency from disclosing to the applicant any information about the subject that is not identifying information and that the agency considers it appropriate to disclose.]

#### Textual Amendments

- F16** Reg. 9 substituted (31.10.2014) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, **9**

#### Commencement Information

- I9** Reg. 9 in force at 30.12.2005, see **reg. 1(1)**

#### Counselling

**10.**—(1) An intermediary agency must provide written information about the availability of counselling to any person who—

- (a) makes an application to it under these Regulations;<sup>F17</sup>...
  - (b) is the subject of such an application and is considering whether to consent to disclosure of information about himself to the applicant<sup>F18</sup>; or
  - (c) is an adopted person considering whether to consent to an application proceeding.]
- (2) The information provided under paragraph (1) must include details of—
- (a) persons offering counselling; and
  - (b) fees that may be charged by such persons.

(3) If a person mentioned in paragraph (1) requests that counselling be provided for him, the intermediary agency must secure the provision of counselling for that person.

(4) The intermediary agency may provide the counselling itself or make arrangements with any of the following persons for provision of counselling—

- (a) if the person is in England or Wales, another adoption agency or a registered adoption support agency;
- (b) if the person is in Scotland, a Scottish adoption agency;

[<sup>F19</sup>(c) if the person is in Northern Ireland, an appropriate voluntary organisation within the meaning of Article 2(2) of the Adoption (NI) Order 1987 or the Regional Board or any Health and Social Care Trust; or]

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- (d) if the person is outside the United Kingdom, any person or body outside the United Kingdom who appears to the agency to correspond in its functions to a body mentioned in paragraphs (a) to (c).

[<sup>F20</sup>(5) In this regulation “Regional Board” means the Regional Health and Social Care Board established under Section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 and a Health and Social Care Trust” means a “Health and Social Care Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(4).]

#### Textual Amendments

- F17** Word in [reg. 10\(1\)\(a\)](#) omitted (31.10.2014) by virtue of [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **10(a)**
- F18** [Reg. 10\(1\)\(c\)](#) and word inserted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **10(b)**
- F19** [Reg. 10\(4\)\(c\)](#) substituted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **10(c)**
- F20** [Reg. 10\(5\)](#) substituted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **10(d)**

#### Commencement Information

- I10** [Reg. 10](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

## PART 3

### PROCEDURE FOR HANDLING APPLICATIONS

#### Procedure on receipt of application

**11.** The intermediary agency must, on receipt of an application under regulation 5, take reasonable steps to confirm—

- (a) the identity of the applicant or of any person acting on his behalf;
- (b) the age of the applicant;
- (c) that any person acting on behalf of the applicant is authorised to do so;
- (d) in the case of an application by a relative of the adopted person, that the applicant is related to that person.
- [<sup>F21</sup>(e) in the case of an application by a person with a prescribed relationship to the adopted person, that the applicant does have a prescribed relationship with that person.]

#### Textual Amendments

- F21** [Reg. 11\(e\)](#) inserted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, **11**

#### Commencement Information

- I11** [Reg. 11](#) in force at 30.12.2005, see [reg. 1\(1\)](#)



## Contacting the appropriate adoption agency

12.—(1) The intermediary agency must (unless it is the appropriate adoption agency) take reasonable steps to establish whether an adoption agency was involved in the adoption and, if so, to identify the appropriate adoption agency.

[<sup>F22</sup>(2) The steps referred to in paragraph (1) may include—

- (a) requesting in writing from the Registrar General any information under regulation 13 that may be relevant for that purpose;
- (b) requesting in writing from the court that made the adoption order information about the identity of the appropriate adoption agency;
- (c) making enquiries of the local authority for the area where the adoption took place.]

(3) Where the appropriate adoption agency has been identified, the intermediary agency must [<sup>F23</sup>take all reasonable steps to] contact that agency in order to—

- (a) ascertain whether a veto under regulation 8 exists;
- (b) if no veto exists—

[<sup>F24</sup>(i) ascertain whether the adopted person has, at any time, expressed his views to the agency about—

- (aa) any future contact with any relative of his;
- (bb) any future contact between people with a prescribed relationship to him and his relatives; or
- (cc) his being approached with regard to such contact; and]

(ii) ascertain the agency's views as to whether the application is appropriate having regard to the matters mentioned in regulation 6; and

[<sup>F25</sup>(c) seek any other information required for the following purposes—

- (i) tracing the adopted person and, where the adopted person is not the subject, any other subject;
- (ii) enabling the adopted person to make an informed decision as to whether he consents to—
  - (aa) the disclosure of identifying information about him;
  - (bb) an application proceeding to facilitate contact between a relative of his and a person with a prescribed relationship to him; or
  - (cc) contact with the applicant;
- (iii) enabling any other subject to make an informed decision as to whether he consents to—
  - (aa) the disclosure of identifying information about him; or
  - (bb) contact with the applicant;
- (iv) counselling the subject and, where they are not the subject, the adopted person in relation to that decision; and
- (v) counselling the applicant.]

(4) Unless a veto under regulation 8 applies, the appropriate adoption agency must take reasonable steps to provide the information sought from it under paragraph (3) [<sup>F26</sup>or under corresponding Welsh provision] and may disclose to the intermediary agency such information (including identifying information) as is necessary for that purpose.

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Changes to legislation: There are currently no known outstanding effects for the The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005. (See end of Document for details)

[<sup>F27</sup>(5) “Intermediary agency” for the purposes of paragraph (4) includes an intermediary agency as defined under corresponding Welsh provision.]

**Textual Amendments**

- F22** Reg. 12(2) substituted (10.11.2015) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2015 (S.I. 2015/1685), regs. 1, **5(a)**
- F23** Words in reg. 12(3) inserted (10.11.2015) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2015 (S.I. 2015/1685), regs. 1, **5(b)**
- F24** Reg. 12(3)(b)(i) substituted (31.10.2014) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, **12(a)**
- F25** Reg. 12(3)(c) substituted (31.10.2014) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2014 (S.I. 2014/2696), regs. 1, **12(b)**
- F26** Words in reg. 12(4) inserted (10.11.2015) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2015 (S.I. 2015/1685), regs. 1, **5(c)**
- F27** Reg. 12(5) inserted (10.11.2015) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2015 (S.I. 2015/1685), regs. 1, **5(d)**

**Commencement Information**

- I12** Reg. 12 in force at 30.12.2005, see **reg. 1(1)**

**Obtaining information from the Registrar General**

[<sup>F28</sup>**13.**—(1) An intermediary agency may make a request in writing to the Registrar General for such of the following information as may assist it for the purposes of proceeding with an application under these Regulations—

- (a) the identity of the appropriate adoption agency;
- (b) details of the court that made the adoption order;
- (c) information the Registrar General may hold that would enable an application to be made for a certified copy of an entry in the Adopted Children Register;
- (d) information from the Adoption Contact Register.

(2) If an intermediary agency is proceeding with an application under regulation 5(1)(c), it may also make a request in writing to the Registrar General for such information as the Registrar General may hold that would enable the adopted person with whom the applicant has a prescribed relationship to obtain a certified copy of the adopted person’s record of birth.]

**Textual Amendments**

- F28** Reg. 13 substituted (10.11.2015) by The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Amendment) Regulations 2015 (S.I. 2015/1685), regs. 1, **6**

**Registrar General to comply with request**

**14.**—(1) The Registrar General must take reasonable steps to comply with a written request for information from an intermediary agency under regulation <sup>F29</sup>... 13.

<sup>F30</sup>(2) .....

#### Textual Amendments

- F29** Words in [reg. 14\(1\)](#) omitted (10.11.2015) by virtue of [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2015 \(S.I. 2015/1685\)](#), regs. 1, [7\(a\)](#)
- F30** [Reg. 14\(2\)](#) omitted (10.11.2015) by virtue of [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2015 \(S.I. 2015/1685\)](#), regs. 1, [7\(b\)](#)

#### Commencement Information

- I13** [Reg. 14](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

### Court to comply with request

**15.**—(1) The court must disclose any information requested in writing by the intermediary agency under regulation 12(2)(b) that is contained in court records.

(2) If the court does not have the information requested under regulation 12(2)(b) it must inform the intermediary agency of that fact in writing, specifying the searches made of court records and, if the court considers that the information may be found in the records of another court, provide the intermediary agency with details of that court.

#### Commencement Information

- I14** [Reg. 15](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

### Authorised disclosures

**16.** An intermediary agency must treat information obtained or held for the purposes of these Regulations as confidential, but may disclose such information (including information that identifies any person) as is necessary—

- (a) to the Registrar General or to the court for the purpose of obtaining information under regulation <sup>F31</sup>... 13;
- (b) to the appropriate adoption agency for the purposes of ascertaining its views or seeking information under regulation 12;
- (c) to the subject to enable him to make an informed decision under regulation 7;
- (d) to a person providing counselling in connection with an application under these Regulations.
- [<sup>F32</sup>(e) to the adopted person to enable him to make an informed decision about whether to consent to an application under these Regulations proceeding.]

#### Textual Amendments

- F31** Words in [reg. 16\(a\)](#) omitted (10.11.2015) by virtue of [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2015 \(S.I. 2015/1685\)](#), regs. 1, [8](#)
- F32** [Reg. 16\(e\)](#) inserted (31.10.2014) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2014 \(S.I. 2014/2696\)](#), regs. 1, [13](#)

#### Commencement Information

- I15** [Reg. 16](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

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## PART 4

### MISCELLANEOUS

#### Offence

**17.** An intermediary agency that discloses information in contravention of regulation 7 without reasonable excuse is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I16** [Reg. 17](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

#### Fees

**18.—(1)** An intermediary agency may charge the applicant any fee it determines is reasonable in connection with the processing of an application under these Regulations.

(2) An intermediary agency may charge a person mentioned in regulation 10(1) such fee as it determines is reasonable in respect of—

- (a) the provision of counselling services for that person; or
- (b) making arrangements to secure counselling where the counselling is provided by a person outside the United Kingdom.

[<sup>F33</sup>(3) The Registrar General may charge an intermediary agency the following fees in connection with requests for information under regulation 13—

- (a) £36 for processing an initial request for information (whether or not information is provided);
- (b) £14 for providing information in response to any subsequent request made in relation to the same applicant.]

(4) An adoption agency may charge an intermediary agency such fee as it determines is reasonable for providing information or giving its views in accordance with a request under regulation 12.

(5) A court may charge an intermediary agency a fee not exceeding £20 for providing information under regulation 15.

#### Textual Amendments

**F33** [Reg. 18\(3\)](#) substituted (10.11.2015) by [The Adoption Information and Intermediary Services \(Pre-Commencement Adoptions\) \(Amendment\) Regulations 2015 \(S.I. 2015/1685\)](#), regs. 1, **9**

#### Commencement Information

**I17** [Reg. 18](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

#### [<sup>F34</sup>Transitional provision for adoption support agencies awaiting registration

**19.—(1)** This regulation applies where a person carrying on an adoption support agency has applied to the registration authority to be registered in respect of it under Part 2 of the Care Standards Act 2000 before 30<sup>th</sup> December 2005 and the application has not yet been determined.

(2) The adoption support agency shall be treated as if it were a registered adoption support agency for the purposes of these Regulations until it is notified whether its application has been finally determined.]

**Textual Amendments**

**F34** Reg. 19 inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **9**

22nd March 2005

*Filkin*  
Parliamentary Under Secretary of State  
Department for Education and Skills

**Status:** Point in time view as at 10/11/2015.

**Changes to legislation:** There are currently no known outstanding effects for the *The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005*. (See end of Document for details)

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## EXPLANATORY NOTE

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

These Regulations make provision under section 98 of the Adoption and Children Act 2002 (“the Act”) for the purposes of assisting persons adopted before 30th December 2005 to obtain information about their adoption and to facilitate contact between those persons and their birth relatives. The regime for disclosure of information about adoptions on or after 30th December 2005 is set out in sections 56 to 65 of the Act and regulations under those sections.

Part 1 confers functions on registered adoption support agencies and adoption agencies (“intermediary agencies”) that are willing to provide intermediary services in respect of adoptions before 30th December 2005. Agencies providing such services are required to do so in accordance with these Regulations.

Part 2 deals generally with applications for intermediary services. An intermediary agency may accept an application for an intermediary service from an adopted person or a relative of an adopted person in respect of any adoption before 30th December 2005 but they must give priority to applications in respect of adoptions before 12th November 1975. The intermediary agency is not required to proceed with an application where it does not consider that it would be appropriate. Regulation 6 sets out the factors that the intermediary agency should take into account in making that decision. Regulation 7 requires the intermediary agency to obtain the informed consent of the subject of the application before disclosing information about him that would identify him to the applicant or enable him to be traced. Regulation 8 enables the adopted person to register a veto with the appropriate adoption agency in relation to an application under these Regulations. Regulation 10 requires the intermediary agency to provide information about counselling and secure counselling services in relation to applications for intermediary services.

Part 3 sets out the procedure to be followed by the intermediary agency in processing an application. The first steps include confirming the identity of the applicant and establishing that he is related to the subject. The intermediary agency should then identify the adoption agency that holds the records relating to the adoption (seeking assistance where appropriate from the Registrar General and the court). It should then contact that agency to seek its views on the application and to seek such information as may be necessary to trace the subject of the application (regulation 12). Where that information cannot be obtained from the adoption agency, the intermediary agency may seek such information from the Registrar General as may assist in processing the application (regulation 14). Regulations 14 and 15 require the Registrar General and the court to provide information when requested. Regulation 16 authorises certain disclosures for the purpose of an application under these Regulations.

Part 4 deals with miscellaneous matters. Regulation 17 creates an offence of disclosure of information in contravention of Regulation 7. Regulation 18 provides for fees that may be charged by intermediary agencies, adoption agencies, the Registrar General and the court in relation to applications under these Regulations.

A Regulatory Impact Assessment has been carried out for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department for Education and Skills' website <http://www.dfes.gov.uk/ria/>.

**Status:**

Point in time view as at 10/11/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005.