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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/>.

**Changes to legislation:**

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