

STATUTORY INSTRUMENTS

2005 No. 890

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

PART 2

APPLICATIONS FOR INTERMEDIARY SERVICES

Applications that may be accepted

- 5.—^{F1}(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.]

^{F2}(2)

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

Textual Amendments

- F1** 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)**
- F2** 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

- I1** Reg. 5 in force at 30.12.2005, see [reg. 1\(1\)](#)

^{F3}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, [^{F4}civil partner,] 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

F3 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

F4 Words in reg. 5A(4)(b)(i) inserted (2.12.2019) by *The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458)*, reg. 1(2), **Sch. 3 para. 74**

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.

(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

I2 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

I3 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 ^[F5] or under corresponding Welsh provision] where—

[^{F6}(a) the subject is either the adopted person or a person with a prescribed relationship to the adopted person; and]

(b) [^{F7}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.

^{F8}(3)

[^{F9}(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

- F5** 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**
- F6** [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)**
- F7** 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)**
- F8** [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)**
- F9** [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

- I4** [Reg. 8](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

Provision of background information where consent refused etc.

[^{F10}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

- F10** [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

- I5** [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;^{F11} ...
- (b) is the subject of such an application and is considering whether to consent to disclosure of information about himself to the applicant^{F12}; 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;
- [^{F13}(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]
- (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).

[^{F14}(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.]

[^{F15}(6) In this regulation “registered adoption support agency” means—

- (a) in relation to England, an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000, or
- (b) in relation to Wales, an adoption support agency registered as an adoption service under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.]

Textual Amendments

- F11** 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)**
- F12** 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)**
- F13** 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)**
- F14** 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)**
- F15** Reg. 10(6) inserted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2019 \(S.I. 2019/237\)](#), reg. 1(2), **Sch. 1 para. 9(2)**

Commencement Information

- I6** [Reg. 10](#) in force at 30.12.2005, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005, PART 2.