



Children Act 1975

1975 CHAPTER 72

PART I

ADOPTION

The Adoption Services

1 Establishment of Adoption Services

- (1) It is the duty of every local authority to establish and maintain within their area a service designed to meet the needs, in relation to adoption, of—
 - (a) children who have been or may be adopted,
 - (b) parents and guardians of such children, and
 - (c) persons who have adopted or may adopt a child,and for that purpose to provide the requisite facilities, or secure that they are provided by approved adoption societies.
- (2) The facilities to be provided as part of the service maintained under subsection (1) include—
 - (a) temporary board and lodging where needed by pregnant women, mothers or children ;
 - (b) arrangements for assessing children and prospective adopters, and placing children for adoption;
 - (c) counselling for persons with problems relating to adoption.
- (3) The facilities of the service maintained under subsection (1) shall be provided in conjunction with the local authority's other social services and with approved adoption societies in their area, so that help may be given in a co-ordinated manner without duplication, omission or avoidable delay.
- (4) The services maintained under subsection (1) by local authorities in England and Wales may be collectively referred to as "the Adoption Service " and those maintained

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by local authorities in Scotland, as " the Scottish Adoption Service ", and a local authority or approved adoption society may be referred to as an adoption agency.

2 Local authorities' social services

The social services referred to in section 1(3) are the functions of a local authority which stand referred to the authority's social services committee or, in Scotland, social work committee, including, in particular but without prejudice to the generality of the foregoing, a local authority's functions relating to-

- (a) the promotion of the welfare of children by diminishing the need to receive children into care or keep them in care, including (in exceptional circumstances) the giving of assistance in cash ;
- (b) the welfare of children in the care of a local authority ;
- (c) the welfare of children who are foster children within the meaning of the Children Act 1958 ;
- (d) children who are subject to supervision orders made in matrimonial proceedings;
- (e) the provision of residential accommodation for expectant mothers and young children and of day-care facilities ;
- (f) the regulation and inspection of nurseries and child minders;
- (g) care and other treatment of children through court proceedings and children's hearings.

3 Duty to promote welfare of child

In reaching any decision relating to the adoption of a child, a court or adoption agency shall have regard to all the circumstances, first consideration being given to the need to safeguard and promote the welfare of the child throughout his childhood; and shall so far as practicable ascertain the wishes and feelings of the child regarding the decision and give due consideration to them, having regard to his age and understanding.

4 Approval of adoption societies

- (1) A body desiring to act as an adoption society or, if it is already an adoption society, desiring to continue to act as such in England and Wales or in Scotland may, in the manner specified by regulations made by the Secretary of State, apply to the Secretary of State for his approval to its doing so.
- (2) On an application under subsection (1), the Secretary of State shall take into account the matters relating to the applicant specified in subsections (3) to (5) and any other relevant considerations, and if, but only if, he is satisfied that the applicant is likely to make, or, if the applicant is an approved adoption society, is making, an effective contribution to the Adoption Service or, as the case may be, to the Scottish Adoption Service, he shall by notice to the applicant give his approval, which shall be operative from a date specified in the notice or, in the case of a renewal of approval, from the date of the notice.
- (3) In considering the application, the Secretary of State shall have regard, in relation to the period for which approval is sought, to the following—
 - (a) the applicant's adoption programme, including, in particular, its ability to make provision for children who are free for adoption,

- (b) the number and qualifications of its staff,
 - (c) its financial resources, and
 - (d) the organisation and control of its operations.
- (4) Where it appears to the Secretary of State that the applicant is likely to operate extensively within the area of a particular local authority he shall ask the authority whether they support the application, and shall take account of any views about it put to him by the authority.
- (5) Where the applicant is already an approved adoption society or, whether before or after the passing of this Act, previously acted as an adoption society, the Secretary of State, in considering the application, shall also have regard to the record and reputation of the applicant in the adoption field, and the areas within which and the scale on which it is currently operating or has operated in the past.
- (6) If after considering the application the Secretary of State is not satisfied that the applicant is likely to make or, as the case may be, is making an effective contribution to the Adoption Service or, as the case may be, to the Scottish Adoption Service, the Secretary of State shall, subject to section 6(1) and (2), by notice inform the applicant that his application is refused.
- (7) If not withdrawn earlier under section 5, approval given under this section shall last for a period of three years from the date on which it becomes operative, and shall then expire or, in the case of an approved adoption society whose further application for approval is pending at that time, shall expire on the date that application is granted or, as the case may be, refused.

5 Withdrawal of approval

- (1) If, while approval of a body under section 4 is operative, it appears to the Secretary of State that the body is not making an effective contribution to the Adoption Service or, as the case may be, to the Scottish Adoption Service, he shall subject to section 6(3) and (4) by notice to the body withdraw the approval from a date specified in the notice.
- (2) If an approved adoption society fails to provide the Secretary of State with information required by him for the purpose of carrying out his functions under subsection (1), or fails to verify such information in the manner required by him, he may by notice to the society withdraw the approval from a date specified in the notice.
- (3) Where approval is withdrawn under subsection (1) or (2) or expires the Secretary of State may direct the body concerned to make such arrangements as to children who are in its care and other transitional matters as seem to him expedient.

6 Procedure on refusal to approve, or withdrawal of approval from, societies

- (1) Before notifying a body which has applied for approval that the application is refused in accordance with section 4(6) the Secretary of State shall serve on the applicant a notice—
- (a) setting out the reasons why he proposes to refuse the application;
 - (b) informing the applicant that he may make representations in writing to the Secretary of State within 28 days of the date of service of the notice.

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- (2) If any representations are made by the applicant in accordance with subsection (1), the Secretary of State shall give further consideration to the application taking into account those representations.
- (3) The Secretary of State shall, before withdrawing approval of an adoption society in accordance with section 5(1), serve on the society a notice—
 - (a) setting out the reasons why he proposes to withdraw the approval; and
 - (b) informing the society that they may make representations in writing to the Secretary of State within 28 days of the date of service of the notice.
- (4) If any representations are made by the society in accordance with subsection (3), the Secretary of State shall give further consideration to the withdrawal of approval under section 5(1) taking into account those representations.
- (5) This section does not apply where the Secretary of State, after having considered any representations made by the applicant in accordance with this section, proposes to refuse approval or, as the case may be, to withdraw approval for reasons which have already been communicated to the applicant in a notice under this section.

7 Inactive or defunct adoption societies

- (1) If it appears to the Secretary of State that an approved adoption society, or one in relation to which approval has been withdrawn under section 5 or has expired, is inactive or defunct he may, in relation to any child who is or was in the care of the society, direct what appears to him to be the appropriate local authority to take any such action as might have been taken by the society or by the society jointly with the authority; and if apart from this section the authority would not be entitled to take that action, or would not be entitled to take it without joining the society in the action, it shall be entitled to do so.
- (2) Before giving a direction under subsection (1) the Secretary of State shall, if practicable, consult both the society and the authority.

Adoption orders

8 Adoption orders

- (1) An adoption order is an order vesting the parental rights and duties relating to a child in the adopters, made on their application by an authorised court.
- (2) The order does not affect the parental rights and duties so far as they relate to any period before the making of the order.
- (3) The making of the order operates to extinguish—
 - (a) any parental right or duty relating to the child which—
 - (i) is vested in a person (not being one of the adopters) who was the parent or guardian of the child immediately before the making of the order, or
 - (ii) is vested in any other person by virtue of the order of any court; and
 - (b) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the child's maintenance for

any period after the making of the order or any other matter comprised in the parental duties and relating to such a period.

- (4) Subsection (3)(b) does not apply to a duty arising by virtue of an agreement—
 - (a) which constitutes a trust, or
 - (b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.
- (5) An adoption order may not be made in relation to a child who is or has been married.
- (6) An adoption order shall not be made in Scotland in relation to a child who is a minor unless with the consent of the minor; except that where the court is satisfied that the minor is incapable of giving his consent to the making of the order, it may dispense with that consent.
- (7) An adoption order may contain such terms and conditions as the court thinks fit.
- (8) An adoption order may be made notwithstanding that the child is an adopted child.
- (9) Schedule 1 contains for England and Wales further provisions about the effect of adoption and related or comparable provisions about legitimation.
- (10) Schedule 2 has effect as respects the status conferred in Scotland by adoption and related matters.

9 Child to live with adopters before order made

- (1) Where—
 - (a) the applicant, or one of the applicants, is a parent, stepparent or relative of the child, or
 - (b) the child was placed with the applicants by an adoption agency or in pursuance of an order of the High Court,an adoption order shall not be made unless the child is at least 19 weeks old and at all times during the preceding 13 weeks had his home with the applicants or one of them.
- (2) Where subsection (1) does not apply, an adoption order shall not be made unless the child is at least twelve months old and at all times during the preceding twelve months had his home with the applicants or one of them.
- (3) An adoption order shall not be made unless the court is satisfied that sufficient opportunities to see the child with the applicant or, in the case of an application by a married couple, both applicants together in the home environment have been afforded—
 - (a) where the child was placed with the applicant by an adoption agency, to that agency, or
 - (b) in any other case, to the local authority within whose area the home is.

10 Adoption by married couple

- (1) Subject to sections 37(1) and 53(1), an adoption order may be made on the application of a married couple where each has attained the age of 21 but an adoption order shall not otherwise be made on the application of more than one person.
- (2) An adoption order shall not be made on the application of a married couple unless—

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- (a) at least one of them is domiciled in a part of the United Kingdom, or in the Channel Islands or the Isle of Man, or
 - (b) the application is for a Convention adoption order and section 24 is complied with.
- (3) Where the application is made to a court in England or Wales and the married couple consist of a parent and step-parent of the child, the court shall dismiss the application if it considers the matter would be better dealt with under section 42 (orders for custody etc.) of the Matrimonial Causes Act 1973.

11 Adoption by one person

- (1) Subject to sections 37(1) and 53(1), an adoption order may be made on the application of one person where he has attained the age of 21 and—
- (a) is not married, or
 - (b) is married and the court is satisfied that—
 - (i) his spouse cannot be found, or
 - (ii) the spouses have separated and are living apart, and the separation is likely to be permanent, or
 - (iii) his spouse is by reason of ill health, whether physical or mental, incapable of making an application for an adoption order.
- (2) An adoption order shall not be made on the application of one person unless—
- (a) he is domiciled in a part of the United Kingdom, or in the Channel Islands or the Isle of Man, or
 - (b) the application is for a Convention adoption order and section 24 is complied with.
- (3) An adoption order shall not be made on the application of the mother or father of the child alone unless the court is satisfied that—
- (a) the other natural parent is dead or cannot be found, or
 - (b) there is some other reason justifying the exclusion of the other natural parent, and where such an order is made the reason justifying the exclusion of the other natural parent shall be recorded by the court.
- (4) Where the application is made to a court in England or Wales and the applicant is a step-parent of the child the court shall dismiss the application if it considers the matter would be better dealt with under section 42 (orders for custody etc.) of the Matrimonial Causes Act 1973.

12 Parental agreement

- (1) An adoption order shall not be made unless—
- (a) the child is free for adoption; or
 - (b) in the case of each parent or guardian of the child the court is satisfied that—
 - (i) he freely, and with full understanding of what is involved, agrees unconditionally to the making of the adoption order (whether or not he knows the identity of the applicants), or
 - (ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in subsection (2).

- (2) The grounds mentioned in subsection (1)(b)(ii) are that the parent or guardian—
 - (a) cannot be found or is incapable of giving agreement;
 - (b) is withholding his agreement unreasonably ;
 - (c) has persistently failed, without reasonable cause to discharge the parental duties in relation to the child;
 - (d) has abandoned or neglected the child ;
 - (e) has persistently ill-treated the child ;
 - (f) has seriously ill-treated the child (subject to subsection (5)).
- (3) Subsection (1) does not apply in any case where the child is not a United Kingdom national and the application for the adoption order is for a Convention adoption order.
- (4) Agreement is ineffective for the purposes of subsection (1)(b)(i) if given by the mother less than six weeks after the child's birth.
- (5) Subsection (2)(f) does not apply unless (because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of the parent or guardian is unlikely.
- (6) A child is free for adoption if he is the subject of an order under section 14 and the order has not been revoked under section 16.

13 Religious upbringing of adopted child

An adoption agency shall in placing a child for adoption have regard (so far as is practicable) to any wishes of the child's parents and guardians as to the religious upbringing of the child.

14 Freeing child for adoption

- (1) Where, on an application by an adoption agency, an authorised court is satisfied in the case of each parent or guardian of the child that—
 - (a) he freely, and with full understanding of what is involved, agrees generally and unconditionally to the making of an adoption order, or
 - (b) his agreement to the making of an adoption order should be dispensed with on a ground specified in section 12(2),the court shall, subject to subsection (5), make an order declaring the child free for adoption.
- (2) No application shall be made under subsection (1) unless—
 - (a) it is made with the consent of a parent or guardian of the child, or
 - (b) the adoption agency is applying for dispensation under subsection (1)(b) of the agreement of each parent or guardian of the child, and the child is in the care of the adoption agency.
- (3) No agreement required under subsection (1)(a) shall be dispensed with under subsection (1)(b) unless the child is already placed for adoption or the court is satisfied that it is likely that the child will be placed for adoption.
- (4) An agreement by the mother of the child is ineffective for the purposes of this section if given less than six weeks after the child's birth.

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- (5) An order under this section shall not be made in Scotland in relation to a child who is a minor unless with the consent of the child ; except that where the court is satisfied that the minor is incapable of giving his consent to the making of the order, it may dispense with that consent.
- (6) On the making of an order under this section, the parental rights and duties relating to the child vest in the adoption agency, and subsections (2) and (3) of section 8 apply as if the order were an adoption order and the agency were the adopters.
- (7) Before making an order under this section the court shall satisfy itself that each parent or guardian who can be found has been given an opportunity of making, if he so wishes, a declaration that he prefers not to be involved in future questions concerning the adoption of the child; and any such declaration shall be recorded by the court.
- (8) Before making an order under this section in the case of an illegitimate child whose father is not its guardian, the court shall satisfy itself in relation to any person claiming to be the father that either—
 - (a) he has no intention of applying for custody of the child under section 9 of the Guardianship of Minors Act 1971 or under section 2 of the Illegitimate Children (Scotland) Act 1930, or
 - (b) if he did apply for custody under either of those sections the application would be likely to be refused.

15 Progress reports to former parent

- (1) This section and section 16 apply to any person ("the former parent") who was required to be given an opportunity of making a declaration under section 14(7) but did not do so.
- (2) Within the 14 days following the date twelve months after the making of the order under section 14, the adoption agency in which the parental rights and duties were vested on the making of the order, unless it has previously by notice to the former parent informed him that an adoption order has been made in respect of the child, shall by notice to the former parent inform him—
 - (a) whether an adoption order has been made in respect of the child, and. (if not)
 - (b) whether the child has his home with a person with whom he has been placed for adoption.
- (3) If at the time when the former parent is given notice under subsection (2) an adoption order has not been made in respect of the child, it is thereafter the duty of the adoption agency to give notice to the former parent of the making of an adoption order (if and when made), and meanwhile to give the former parent notice whenever the child is placed for adoption or ceases to have his home with a person with whom he has been placed for adoption.
- (4) If at any time the former parent by notice makes a declaration to the adoption agency that he prefers not to be involved in future questions concerning the adoption of the child—
 - (a) the agency shall secure that the declaration is recorded by the court which made the order under section 14, and
 - (b) the agency is released from the duty of complying further with subsection (3) as respects that former parent.

16 Revocation of section 14 order

- (1) The former parent, at any time more than twelve months after the making of the order under section 14 when—
 - (a) no adoption order has been made in respect of the child, and
 - (b) the child does not have his home with a person with whom he has been placed for adoption,may apply to the court which made the order for a further order revoking it on the ground that he wishes to resume the parental rights and duties.
- (2) While the application is pending the adoption agency having the parental rights and duties shall not place the child for adoption without the leave of the court.
- (3) Where an order freeing a child for adoption is revoked under this section—
 - (a) the parental rights and duties relating to the child are vested in the individual or, as the case may be, the individuals in whom they vested immediately before that order was made;
 - (b) if the parental rights and duties, or any of them, vested in a local authority or voluntary organisation immediately before the order freeing the child for adoption was made, those rights and duties are vested in the individual, or as the case may be, the individuals in whom they vested immediately before they were vested in the authority or organisation ; and
 - (c) any duty extinguished by virtue of section 8(3)(b) is forth with revived, but the revocation does not affect any right or duty so far as it relates to any period before the date of the revocation.
- (4) Subject to subsection (5) if the application is dismissed on the ground that to allow it would contravene the principle embodied in section 3—
 - (a) the former parent who made the application shall not be entitled to make any further application under subsection (1) in respect of the child, and
 - (b) the adoption agency is released from the duty of complying further with section 15(3) as respects that parent.
- (5) Subsection (4) (a) shall not apply where the court which dismissed the application gives leave to the former parent to make a further application under subsection (1), but such leave shall not be given unless it appears to the court that because of a change in circumstances or for any other reason it is proper to allow the application to be made.

17 Care etc. of child on refusal of adoption order

- (1) Where on an application for an adoption order in relation to a child under the age of 16 the court refuses to make the adoption order then—
 - (a) if it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of an independent person, the court may order that the child shall be under the supervision of a specified local authority or under the supervision of a probation officer;
 - (b) if it appears to the court that there are exceptional circumstances making it impracticable or undesirable for the child to be entrusted to either of the parents or to any other individual, the court may by order commit the child to the care of a specified local authority.
- (2) Where the court makes an order under subsection (1)(b) the order may require the payment by either parent to the local authority, while it has the care of the child, of

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such weekly or other periodical sum towards the maintenance of the child as the court thinks reasonable.

- (3) Sections 3 and 4 of the Guardianship Act 1973 (which contain supplementary provisions relating to children who are subject to supervision, or in the care of local authorities, by virtue of orders made under section 2 of that Act) apply in relation to an order under this section as they apply in relation to an order under section 2 of that Act.
- (4) In the application of this section to Scotland—
 - (a) the words " or under the supervision of a probation officer " in subsection (1) do not apply;
 - (b) subsection (3) does not apply ; and
 - (c) subsections (2), (4) and (5) of section 11 of the Guardianship Act 1973 apply in relation to an order under this section as they apply in relation to an order under that section.

18 Need to notify local authority of adoption application

- (1) An adoption order shall not be made in respect of a child who was not placed with the applicant by an adoption agency unless the applicant has, at least three months before the date of the order, given notice to the local authority within whose area he has his home of his intention to apply for the adoption order.
- (2) On receipt of such a notice the local authority shall investigate the matter and submit to the court a report of their investigation.
- (3) Under subsection (2), the local authority shall in particular investigate—
 - (a) so far as is practicable, the suitability of the applicant, and any other matters relevant to the operation of section 3 in relation to the application ; and
 - (b) whether the child was placed with the applicant in contravention of section 29 of the 1958 Act.

19 Interim orders

- (1) Where on an application for an adoption order the requirements of sections 12(1) and 18(1) are complied with the court may postpone the determination of the application and make an order vesting the legal custody of the child in the applicants for a probationary period not exceeding two years upon such terms for the maintenance of the child and otherwise as the court thinks fit.
- (2) Where the probationary period specified in an order under subsection (1) is less than two years, the court may by a further order extend the period to a duration not exceeding two years in all.

20 Guardian ad litem and reporting officer

- (1) For the purpose of any application for an adoption order or an order under section 14, 16 or 25, rules shall provide for the appointment, in such cases as are prescribed.—
 - (a) of a person to act as guardian ad litem of the child upon the hearing of the application, with the duty of safeguarding the interests of the child in the prescribed manner;
 - (b) of a person to act as reporting officer for the purpose of witnessing agreements to adoption and performing such other duties as the rules may prescribe.

- (2) A person who is employed—
- (a) in the case of an application for an adoption order, by the adoption agency by whom the child was placed; or
 - (b) in the case of an application under section 14 by the adoption agency by whom the application was made; or
 - (c) in the case of an application under section 16 by the adoption agency with the parental rights and duties relating to the child,
- shall not be appointed to act as guardian ad litem or reporting officer for the purposes of the application but, subject to that, the same person may if the court thinks fit be both guardian ad litem and reporting officer.
- (3) Rules may provide for the reporting officer to be appointed before the application is made.
- (4) In relation to Scotland, references in this section to a guardian ad litem shall be construed as references to a curator ad litem.

21 Hearings of applications etc. in private

- (1) Proceedings in the High Court under this Part may be disposed of in chambers.
- (2) All proceedings in the county court under this Part shall be heard and determined in camera.
- (3) Proceedings in the magistrates' court under this Part shall be domestic proceedings for the purposes of the Magistrates' Courts Act 1952 but section 57(2)(d) of that Act shall not apply in relation to any proceedings under this Part.
- (4) In relation to Scotland, all proceedings before the court under this Part shall be heard and determined in camera unless the court otherwise directs.

22 Making of order

- (1) In the case of—
- (a) an application for an adoption order in relation to a child who is not free for adoption ;
 - (b) an application for an order under section 14,
- rules shall require every person who can be found and whose agreement or consent to the making of the order is required to be given or dispensed with under this Act to be notified of a date and place where he may be heard on the application and of the fact that, unless he wishes or the court requires, he need not attend.
- (2) In the case of an application under section 25 rules shall require every person who can be found, and whose agreement to the making of the order would be required if the application were for an adoption order (other than a Convention adoption order), to be notified as aforesaid.
- (3) Where an application for an adoption order relates to a child placed by an adoption agency, the agency shall submit to the court a report on the suitability of the applicants and any other matters relevant to the operation of section 3, and shall assist the court in any manner the court may direct.

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- (4) The court shall not proceed to hear an application for an adoption order in relation to a child where a previous application for a British adoption order made in relation to the child by the same persons was refused by any court unless—
- (a) in refusing the previous application the court directed that this subsection should not apply, or
 - (b) it appears to the court that because of a change in circumstances or for any other reason it is proper to proceed with the application.
- (5) The court shall not make an adoption order in relation to a child unless it is satisfied that the applicants have not, as respects the child, contravened section 50 of the 1958 Act (prohibition of certain payments in relation to adoption).
- (6) In the application of this section to Scotland for the reference to hearing an application in subsection (4) there shall be substituted a reference to determining an application.

23 Transfer of parental rights and duties between adoption agencies

On the joint application of an adoption agency in which the parental rights and duties relating to a child who is in Great Britain are vested under section 14(6) or this section and any other adoption agency, an authorised court may if it thinks fit by order transfer the parental rights and duties to the latter agency.

24 Convention adoption orders

- (1) An adoption order shall be made as a Convention adoption order if the application is for a Convention adoption order and the following conditions are satisfied both at the time of the application and when the order is made.
- (2) The child—
- (a) must be a United Kingdom national or a national of a Convention country, and
 - (b) must habitually reside in British territory or a Convention country, and
 - (c) must not be, or have been, married.
- (3) The applicant or applicants and the child must not all be United Kingdom nationals living in British territory.
- (4) If the application is by a married couple, either—
- (a) each must be a United Kingdom national or a national of a Convention country, and both must habitually reside in Great Britain, or
 - (b) both must be United Kingdom nationals, and each must habitually reside in British territory or a Convention country,
- and if the applicants are nationals of the same Convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.
- (5) If the application is by one person, either—
- (a) he must be a United Kingdom national or a national of a Convention country, and must habitually reside in Great Britain, or
 - (b) he must be a United Kingdom national, and must habitually reside in British territory or a Convention country,
- and if he is a national of a Convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.

- (6) If the child is not a United Kingdom national the order shall not be made—
- (a) except in accordance with the provisions, if any, relating to consents and consultations of the internal law relating to adoption of the Convention country of which the child is a national, and
 - (b) unless the court is satisfied that each person who consents to the order in accordance with that internal law does so with full understanding of what is involved.
- (7) The reference to consents and consultations in subsection (6) does not include a reference to consent by and consultation with the applicant and members of the applicant's family (including his or her spouse), and for the purposes of subsection (6) consents may be proved in the manner prescribed by rules and the court shall be treated as the authority by whom, under the law mentioned in subsection (6), consents may be dispensed with and the adoption in question may be effected; and where the provisions there mentioned require the attendance before that authority of any person who does not reside in Great Britain, that requirement shall be treated as satisfied for the purposes of subsection (6) if—
- (a) that person has been given a reasonable opportunity of communicating his opinion on the adoption in question to the proper officer or clerk of the court, or to an appropriate authority of the country in question, for transmission to the court; and
 - (b) where he has availed himself of that opportunity, his opinion has been transmitted to the court.
- (8) In subsections (4) and (5) " specified provision " means a provision specified in an order of the Secretary of State as one notified to the Government of the United Kingdom in pursuance of the provisions of the Convention which relate to prohibitions on an adoption contained in the national law of the Convention country in question.
- (9) Sections 9 and 10(1) (ascertainment of nationality, and internal law of foreign country) of the Adoption Act 1968 shall apply with any necessary modifications for the purposes of this section as they apply for the purposes of that Act.

25 Adoption of children abroad

- (1) Where on an application made in relation to a child by a person who is not domiciled in England and Wales or Scotland an authorised court is satisfied that he intends to adopt the child under the law of or within the country in which the applicant is domiciled, the court may, subject to the following provisions of this section, make an order vesting in him the parental rights and duties relating to the child.
- (2) The provisions of this Part relating to adoption orders, except sections 8(1), (9) and (10), 10(2), 11(2), 14 to 16, 19, 22(1), 23 and 24, shall apply in relation to orders under this section as they apply in relation to adoption orders subject to the modification that in section 9(1) for " 19 " and " 13 " there are substituted " 32 " and " 26 " respectively.
- (3) Sections 20 to 23 and 24(4) and (5) of the 1958 Act shall apply in relation to an order under this section as they apply in relation to an adoption order except that any entry in the Registers of Births, the Register of Births or the Adopted Children Register which is required to be marked in consequence of the making of an order under this section shall, in lieu of being marked with the word " Adopted " or " Re-adopted " (with or without the addition of the word " (Scotland) " or " (England) ") be marked with the

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words " Proposed Foreign Adoption" or " Proposed Foreign Re-adoption ", as the case may require.

- (4) References in Parts III and IV of the 1958 Act to an adoption order include references to an order under this section, and references in this Act and in the 1958 Act to the placing of children for adoption or to the making of arrangements for adoption include references to the placing of children for adoption abroad or the making of arrangements for adoption abroad.

Amendments of Adoption Act 1958

26 Obtaining of birth certificate by adopted person

- (1) In section 20 of the 1958 Act, in subsection (5), after the word " except " there are inserted the words " in accordance with section 20A of this Act or ".
- (2) The following section is inserted in the 1958 Act after section 20:—

“20A Disclosure of birth records of adopted persons.

- (1) Subject to subsections (4) and (6) of this section the Registrar General shall on an application made in the prescribed manner by an adopted person a record of whose birth is kept by the Registrar General and who has attained the age of 18 years supply to that person on payment of the prescribed fee (if any) such information as is necessary to enable that person to obtain a certified copy of the record of his birth.
- (2) On an application made in the prescribed manner by an adopted person under the age of 18 years a record of whose birth is kept by the Registrar General and who is intending to be married in England or Wales, and on payment of the prescribed fee (if any), the Registrar General shall inform the applicant whether or not it appears from information contained in the registers of live births or other records that the applicant and the person whom he intends to marry may be within the prohibited degrees of relationship for the purposes of the Marriage Act 1949.
- (3) It shall be the duty of the Registrar General and each local authority and approved adoption society to provide counselling for adopted persons who apply for information under subsection (1) of this section.
- (4) Before supplying any information to an applicant under subsection (1) of this section, the Registrar General shall inform the applicant that counselling services are available to him—
- (a) at the General Register Office ; or
 - (b) from the local authority for the area where the applicant is at the time the application is made; or
 - (c) from the local authority for the area where the court sat which made the adoption order relating to the applicant; or
 - (d) if the applicant's adoption was arranged by an adoption society which is approved under section 4 of the Children Act 1975, from that society.

- (5) If the applicant chooses to receive counselling from a local authority or an adoption society under subsection (4) the Registrar General shall send to the authority or society of the applicant's choice the information to which the applicant is entitled under subsection (1).
- (6) The Registrar General shall not supply a person who was adopted before the date on which the Children Act 1975 was passed with any information under subsection (1) of this section unless that person has attended an interview with a counsellor either at the General Register Office or in pursuance of arrangements made by the local authority or adoption society from whom the applicant is entitled to receive counselling in accordance with subsection (4).
- (7) In this section " prescribed " means prescribed by regulations made by the Registrar General.”.

27 Counselling in Scotland for adopted person seeking information about his birth

In section 22 of the 1958 Act—

- (a) the following words are added at the end of subsection (4)—

“or a local authority or an approved adoption society which is providing counselling, under subsection (4A) of this section, for that adopted person.”;

- (b) the following subsections are inserted after subsection (4)—

“(4A) Where the Registrar General for Scotland furnishes an adopted person with information under subsection (4) of this section, he shall advise that person that counselling services are available—

- (a) from the local authority for the area where the adopted person lives ; or
- (b) if the adopted person's adoption was arranged by an adoption society which is approved under section 4 of the Children Act 1975, from that society,

and it shall be the duty of such local authority and approved adoption society to provide counselling for adopted persons who have been furnished with information under subsection (4) and who apply to them for counselling in respect of that information.

(4B) Where an adopted person has arranged to receive counselling under subsection (4A), the Registrar General for Scotland shall, on receipt of a request from the local authority or adoption society which is providing that counselling, and on payment of the appropriate fee, send to the authority or society an extract of the entry relating to the adopted person in the Register of Births.”.

28 Restriction on arranging adoption and placing of children

In section 29 of the 1958 Act.—

- (a) the following subsection is substituted for subsections (1) and (2)—

“(1) A person other than an adoption agency shall not make arrangements for the adoption of a child, or place a child for adoption, unless—

- (a) the proposed adopter is a relative of the child, or

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- (b) he is acting in pursuance of an order of the High Court”;
- (b) the following subsections are inserted after subsection (1)—
- “*(2) An adoption society approved under the Children Act 1975 only as respects England and Wales shall not act as an adoption society in Scotland, except to the extent that it considers it necessary to do so in the interests of a person mentioned in section 1(1) of that Act.*
- (2A) An adoption society approved under the Children Act 1975 only as respects Scotland shall not act as an adoption society in England or Wales, except to the extent that it considers it necessary to do so in the interests of a person mentioned in section 1(1) of that Act.*”;
- (c) in subsection (3)—
- (i) the following is inserted after paragraph (b)—
- “or
- (c) receives a child placed with him in contravention of subsection (1) of this section”;
- (ii) for the words " six months " there are substituted the words " three months " and for the words " one hundred pounds " there are substituted the words " £400 " ;
- (d) the following subsection is substituted for subsection (5)—
- “*(5) Section 17 of the Children Act 1975 shall apply where a person is convicted of a contravention of subsection (1) of this section as it applies where an application for an adoption order is refused.*”.

29 Restrictions on removal of child pending adoption

The following sections are substituted for section 34 of the 1958 Act—

“34 Restrictions on removal where adoption agreed or application made under section 14 of Children Act 1975.

- (1) While an application for an adoption order is pending in a case where a parent or guardian of the child has agreed to the making of the adoption order (whether or not he knows the identity of the applicant), the parent or guardian is not entitled, against the will of the person with whom the child has his home, to remove the child from the custody of that person except with the leave of the court.
- (2) While an application is pending for an order under section 14 of the Children Act 1975 and—
- (a) the child is in the care of the adoption agency making the application, and
- (b) the application was not made with the consent of each parent or guardian of the child,
- no parent or guardian of the child who did not consent to the application is entitled, against the will of the person with whom the child has his home, to remove the child from the custody of that person except with the leave of the court.

- (3) Any person who contravenes subsection (1) or (2) of this section commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £400 or both.

34A Restrictions on removal where applicant has provided home for five years.

- (1) While an application for an adoption order in respect of a child made by the person with whom the child has had his home for the five years preceding the application is pending, no person is entitled, against the will of the applicant, to remove the child from the applicant's custody except with the leave of the court or under authority conferred by any enactment or on the arrest of the child.
- (2) Where a person (" the prospective adopter") gives notice in writing to the local authority within whose area he has his home that he intends to apply for an adoption order in respect of a child who for the preceding five years has had his home with the prospective adopter, no person is entitled, against the will of the prospective adopter, to remove the child from the prospective adopter's custody, except with the leave of a court or under authority conferred by any enactment or on the arrest of the child, before—
- (a) the prospective adopter applies for the adoption order, or
 - (b) the period of three months from the receipt of the notice by the local authority expires,
- whichever occurs first.
- (3) In any case where subsection (1) or (2) of this section applies, and—
- (a) the child was in the care of a local authority before he began to have his home with the applicant or, as the case may be, the prospective adopter, and
 - (b) the child remains in the care of the authority,
- the authority shall not remove the child from the actual custody of the applicant or of the prospective adopter except in accordance with sections 35 and 36 of this Act or with the leave of the court.
- (4) A local authority which receives such notice as aforesaid in respect of a child whom the authority know to be in the care of another local authority or of a voluntary organisation shall, not more than seven days after the receipt of the notice, inform that other authority or the organisation in writing that they have received the notice.
- (5) Subsection (2) of this section does not apply to any further notice served by the prospective adopter on any local authority in respect of the same child during the period referred to in paragraph (b) of that subsection or within 28 days after its expiry.
- (6) Any person who contravenes subsection (1) or (2) of this section commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £400 or both.
- (7) The Secretary of State may by order made by statutory instrument a draft of which has been approved by each House of Parliament amend subsection (1) or (2) of this section to substitute a different period for the period of five years

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mentioned in that subsection (or the period which, by a previous order under this subsection, was substituted for that period).

- (8) In relation to Scotland, subsection (3) of this section does not apply where the removal of the child is authorised, in terms of Part III of the Social Work (Scotland) Act 1968, by a justice of the peace or a children's hearing.”.

30 Return of child taken away in breach of section 34 or 34A of 1958 Act

- (1) An authorised court may on the application of a person from whose custody a child has been removed in breach of section 34 or 34A of the 1958 Act order the person who has so removed the child to return the child to the applicant.
- (2) An authorised court may on the application of a person who has reasonable grounds for believing that another person is intending to remove a child from the applicant's custody in breach of section 34 or 3 4A of the 1958 Act by order direct that other person not to remove the child from the applicant's custody in breach of the said section 34 or 34A.
- (3) If, in the case of an order made by the High Court under subsection (1), the High Court or, in the case of an order made by a county court under subsection (1), a county court is satisfied that the child has not been returned to the applicant, the court may make an order authorising an officer of the court to search such premises as may be specified in the order for the child and, if the officer finds the child, to return the child to the applicant.
- (4) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for believing that a child to whom an order under subsection (1) relates is in premises specified in the information, he may issue a search warrant authorising a constable to search the premises for the child; and if a constable acting in pursuance of a warrant under this section finds the child, he shall return the child to the person on whose application the order under subsection (1) was made.
- (5) An order under subsection (3) may be enforced in like manner as a warrant for committal.
- (6) Subsections (3), (4) and (5) do not apply to Scotland.

31 Return of child on refusal of adoption order

In section 35 of the 1958 Act, the following subsection is inserted after subsection (5)

—

- “(5A) Where an application for an adoption order is refused the court may, if it thinks fit, at any time before the expiry of the period of seven days mentioned in subsection (3) of this section order that period to be extended to a duration, not exceeding six weeks, specified in the order.”.

32 Payment of allowances to adopters

In section 50 (prohibition of certain payments in relation to adoption) of the 1958 Act, the following subsections are inserted at the end—

- “(4) If an adoption agency submits to the Secretary of State a scheme for the payment by the agency of allowances to persons who have adopted or intend

to adopt a child where arrangements for the adoption were made, or are to be made, by that agency, and the Secretary of State approves the scheme, this section shall not apply to any payment made in accordance with the scheme.

- (5) The Secretary of State, in the case of a scheme approved by him under subsection (4) of this section, may at any time—
 - (a) make, or approve the making by the agency of, alterations to the scheme ;
 - (b) revoke the scheme.
- (6) The Secretary of State shall, within seven years of the date on which section 32 of the Children Act 1975 comes into force and, thereafter, every five years, publish a report on the operation of the schemes since that date or since the publication of the last report.
- (7) Subject to the following subsection, subsection (4) of this section shall expire on the seventh anniversary of the date on which it comes into force.
- (8) The Secretary of State may by order made by statutory instrument at any time before the said anniversary, repeal subsection (7) of this section.
- (9) An order under subsection (8) of this section shall not be made unless—
 - (a) a report has been published under subsection (6) of this section, and
 - (b) a draft of the order has been laid before Parliament and approved by resolution of each House.
- (10) Notwithstanding the expiry of subsection (4) of this section or the revocation of a scheme approved under this section, subsection (1) of this section shall not apply in relation to any payment made, whether before or after the expiry of subsection (4) or the revocation of the scheme, in accordance with a scheme which was approved under this section to a person to whom such payments were made, where the scheme was not revoked, before the expiry of subsection (4) or, if the scheme was revoked, before the date of its revocation.”.