

ADOPTION AND CHILDREN ACT 2002

EXPLANATORY NOTES

THE ACT

20. The Act replaces the Adoption Act 1976 (except provisions about the status of children already adopted) and reforms the existing legal framework for domestic and intercountry adoption in England and Wales. It also consolidates some of the provisions in the Adoption (Intercountry Aspects) Act 1999. In the Adoption (Intercountry Aspects) Act 1999, sections 1 and 2 (regulations to give effect to the Convention and Central Authorities), section 7 (amendments to the British Nationality Act 1981) and Schedule 1 (the text of the Hague Convention so far as material), are to continue in force for England and Wales, as well as Scotland. The remaining provisions as respects England and Wales will cease to apply in England and Wales and will instead be incorporated into the Act. The Act will affect all adoptions and arrangements for the adoption of children in England and Wales and all adoption applications from persons resident and settled in England and Wales who seek to adopt children living abroad. Some parts of the Act extend to Scotland and Northern Ireland. It is intended that the current mutual recognition of adoption and cross border placement for adoption between England, Wales, Scotland and Northern Ireland will continue.
21. The Act has three Parts:
- **Part 1** sets out the framework of adoption law for England and Wales. Chapter 1 provides for the welfare of the child to be paramount (*section 1*). Chapter 2 covers the adoption service. It places a duty on local authorities in England and Wales to maintain an adoption service, which includes making and participating in arrangements for the adoption of children and for the provision of adoption support services (*section 3*); provides a statutory right to request an assessment for adoption support services (*section 4*); amends Part 2 of the Care Standards Act 2000 to provide for the registration of adoption support agencies (*section 8*); enables the appropriate Minister to establish a new independent review mechanism to consider determinations made by adoption agencies about the suitability of prospective adopters and the disclosure of protected information (*section 12*); provides for default powers (*section 14*), inspection (*section 15*) and inquiries (*section 17*). Chapter 3 covers placement for adoption and adoption orders. It introduces placement by consent and placement orders (*sections 18 to 29*); makes provision for the removal of children who are or may be placed for adoption (*sections 30 to 35*) and makes provision for adoption orders (*sections 46 to 51*). It also makes provision for disclosure of information prior to and following a person's adoption (*sections 54, 56 to 65 and 98*). Chapter 4 covers the status of adopted children (*sections 66 to 76*). Chapter 5 makes provision for the Adopted Children Register (*sections 77 to 79*) and the Adoption Contact Register (*sections 80 and 81*). Chapter 6 makes provision for intercountry adoption (*sections 83 to 91*). Chapter 7 covers miscellaneous provisions. It makes provision for offences relating to arranging adoptions (*section 93*), reports (*section 94*) and making certain payments (*section 95*).

*These notes refer to the Adoption and Children Act 2002
(c.38) which received Royal Assent on 7th November 2002*

- **Part 2** makes amendments to the Children Act 1989; it provides for the acquisition of parental responsibility by an unmarried father who jointly registers with the mother their child's birth (*section 111*); introduces a more straightforward process for step-parents to acquire parental responsibility either through the courts or with consent (*section 112*); provides for a local authority foster parent to apply for a section 8 order if the child has lived with him for one year rather than three years (*section 113*); provides for enhanced residence orders (*section 114*) and special guardianship (*section 115*); makes provision in respect of local authorities' powers to provide accommodation for children in need (*section 116*); amends the complaints procedure by allowing for regulations to impose time limits for the making of representations and establish an informal resolution stage, and extending the procedure to some services provided under Parts 4 and 5 of the Children Act 1989 and under this Act (*section 117*); makes provision regarding care plans and the review of plans for looked after children (*sections 118 and 121*); places a duty on local authorities to make provision for the arrangement of advocacy services for looked after children and young people leaving care who wish to make a complaint under the Children Act 1989 (*section 119*); amends the definition of "harm" in that Act (*section 120*) and provides for the representation of children in court proceedings (*section 122*).
- **Part 3** makes miscellaneous provision, including on advertising (*sections 123 and 124*), and establishing the Adoption and Children Act Register (*sections 125 to 131*).