



# Adoption and Children Act 2002

## 2002 CHAPTER 38

### PART 1

#### ADOPTION

### CHAPTER 2

#### THE ADOPTION SERVICE

##### *The Adoption Service*

## 2 Basic definitions

(1) The services maintained by local authorities under section 3(1) may be collectively referred to as “the Adoption Service”, and a local authority or registered adoption society may be referred to as an adoption agency.

[<sup>F1</sup>(2) In this Act, “registered adoption society” means—

- (a) in relation to England, a voluntary organisation which is an adoption society registered under Part 2 of the Care Standards Act 2000 (c. 14), or
- (b) in relation to Wales, a voluntary organisation which is an adoption society registered as a provider in Wales of an adoption service under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2),

but in relation to the provision of any facility of the Adoption Service, references to a registered adoption society or to an adoption agency do not include an adoption society which is not registered in respect of that facility.]

(3) A registered adoption society is to be treated as registered in respect of any facility of the Adoption Service unless it is a condition of its registration that it does not provide that facility.

*Status: Point in time view as at 29/04/2019. This version of this chapter contains provisions that are prospective.*

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- (4) No application for registration under Part 2 of the Care Standards Act 2000 [<sup>F2</sup>or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016] may be made in respect of an adoption society which is an unincorporated body.
- (5) In this Act—
- “the 1989 Act” means the Children Act 1989 (c. 41),
- [<sup>F3</sup>“the 2014 Act” means the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#),]
- “adoption society” means a body whose functions consist of or include making arrangements for the adoption of children,
- “voluntary organisation” means a body other than a public or local authority the activities of which are not carried on for profit.
- (6) In this Act, “adoption support services” means—
- counselling, advice and information, and
  - any other services prescribed by regulations, in relation to adoption.
- (7) The power to make regulations under subsection (6)(b) is to be exercised so as to secure that local authorities provide financial support.
- (8) In this Chapter, references to adoption are to the adoption of persons, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the British Islands.

#### Textual Amendments

- F1** S. 2(2) substituted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\)](#), regs. 1(2), **15(a)**
- F2** Words in s. 2(4) inserted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\)](#), regs. 1(2), **15(b)**
- F3** Words in s. 2(5) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **189**

#### Modifications etc. (not altering text)

- C1** S. 2(5) applied (with modifications) (6.4.2010) by [The Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), regs. 1(1), 2, **Sch. 1**

#### Commencement Information

- I1** S. 2(1)-(5) in force at 7.12.2004 by [S.I. 2004/3203](#), **art. 2(1)(a)**
- I2** S. 2(6)(7)(8) in force at 10.3.2003 for specified purposes for E. by [S.I. 2003/366](#), **art. 2(2)(b)**
- I3** S. 2(6)(7)(8) in force at 6.10.2003 for E. in so far as not already in force by [S.I. 2003/366](#), **art. 2(6)(b)**
- I4** S. 2(6) in force at 7.2.2004 for W. by [S.I. 2004/252](#), **art. 2(a)**
- I5** S. 2(7)(8) in force at 28.11.2003 for specified purposes for W. by [S.I. 2003/3079](#), **art. 2(1)(a)**
- I6** S. 2(7)(8) in force at 7.12.2004 in so far as not already in force by [S.I. 2004/3203](#), **art. 2(1)(a)**

### 3 Maintenance of Adoption Service

- (1) Each local authority must continue to maintain within their area a service designed to meet the needs, in relation to adoption, of—
- children who may be adopted, their parents and guardians,

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- (b) persons wishing to adopt a child, and
  - (c) adopted persons, their parents, natural parents and former guardians;
- and for that purpose must provide the requisite facilities.
- (2) Those facilities must include making, and participating in, arrangements—
- (a) for the adoption of children, and
  - (b) for the provision of adoption support services.
- (3) As part of the service, the arrangements made for the purposes of subsection (2)(b)—
- (a) must extend to the provision of adoption support services to persons who are within a description prescribed by regulations,
  - (b) may extend to the provision of those services to other persons.
- (4) A local authority may provide any of the requisite facilities by securing their provision by—
- (a) registered adoption societies, or
  - (b) other persons who are within a description prescribed by regulations of persons who may provide the facilities in question.
- (5) The facilities of the service must be provided in conjunction with the local authority's other social services and with registered adoption societies in their area, so that help may be given in a co-ordinated manner without duplication, omission or avoidable delay.
- (6) The social services referred to in subsection (5) are the functions of a local authority which are social services functions within the meaning of the Local Authority Social Services Act 1970 (c. 42) [<sup>F4</sup>or for the purposes of the 2014 Act (which, in each case, include], in particular, those functions in so far as they relate to children).

#### Textual Amendments

- F4** Words in s. 3(6) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **190**

#### Commencement Information

- I7** S. 3(1)(2)(5)(6) in force at 30.12.2005 by [S.I. 2005/2213](#), **art. 2(b)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)
- I8** S. 3(3)(4) in force at 7.12.2004 for specified purposes for E. by [S.I. 2004/3203](#), **art. 2(1)(m)(i)**
- I9** S. 3(3)(4) in force at 6.6.2005 for W. by [S.I. 2005/1206](#), **art. 2**
- I10** S. 3(3)(4) in force at 30.12.2005 for E. in so far as not already in force by [S.I. 2005/2213](#), **art. 3(a)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

#### [<sup>F5</sup>3ZA England - joint arrangements etc

- (1) The Secretary of State may give directions requiring one or more local authorities in England to make arrangements for all or any of their functions within subsection (3) to be carried out on their behalf by—
- (a) one of those authorities, or
  - (b) one or more other adoption agencies.
- (2) A direction under subsection (1) may, in particular—
- (a) specify who is to carry out the functions, or

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- (b) require the local authority or authorities to determine who is to carry out the functions.
- (3) The functions mentioned in subsection (1) are functions in relation to—
  - (a) the recruitment of persons as prospective adopters;
  - (b) the assessment of prospective adopters' suitability to adopt a child;
  - (c) the approval of prospective adopters as suitable to adopt a child;
  - (d) decisions as to whether a particular child should be placed for adoption with a particular prospective adopter;
  - (e) the provision of adoption support services.
- (4) The Secretary of State may give a direction requiring a local authority in England to terminate arrangements made in accordance with a direction under subsection (1).
- (5) A direction under this section may make different provision for different purposes.
- (6) The Secretary of State may by regulations amend subsection (3).]

#### Textual Amendments

- F5** S. 3ZA inserted (7.3.2018) by [Education and Adoption Act 2016 \(c. 6\)](#), ss. **15(2)**, 19(2); S.I. 2018/300, reg. 2(a)

### <sup>F6</sup>3A Recruitment, assessment and approval of prospective adopters

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#### Textual Amendments

- F6** S. 3A omitted (7.3.2018) by virtue of [Education and Adoption Act 2016 \(c. 6\)](#), ss. **15(3)**, 19(2); S.I. 2018/300, reg. 2(a)

### [<sup>F7</sup>3A Wales – joint arrangements

- (1) The Welsh Ministers may direct two or more local authorities in Wales to enter into specified arrangements with each other in relation to the provision of specified services maintained under section 3(1).
- (2) Before giving a direction under this section the Welsh Ministers must consult the local authorities to which it is to be given.
- (3) Specified arrangements may include (among other things) arrangements—
  - (a) as to the establishment and maintenance of a pooled fund;
  - (b) as to the provision of staff, goods, services, accommodation or other resources;
  - (c) for determining the amount of payment or other contribution to be made towards relevant expenditure by the authorities which are parties to the arrangements;
  - (d) for working in conjunction with registered adoption societies;
  - (e) as to the responsibility for, and the operation and management of, the arrangements;

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- (f) as to the establishment and operation of a panel to make recommendations as to—
    - (i) whether a child should be placed for adoption;
    - (ii) whether a prospective adopter is suitable to adopt a child;
    - (iii) whether a particular child should be placed for adoption with a particular prospective adopter;
  - (g) for resolving complaints about services provided in accordance with the specified arrangements;
  - (h) as to the determination of disputes between the authorities which are parties to the arrangements.
- (4) Where the Welsh Ministers exercise their power of direction under subsection (1) they must within 21 days of the giving of the direction—
- (a) report to the National Assembly for Wales that the power has been exercised, and
  - (b) lay a copy of the direction before the National Assembly for Wales.
- (5) In this section—
- “a pooled fund” is a fund made up of contributions by two or more local authorities out of which payments may be made towards relevant expenditure;
- “relevant expenditure” is expenditure incurred in connection with the provision of services provided in accordance with the specified arrangements;
- “specified” means specified in a direction under this section.]

#### Textual Amendments

- F7** S. 3A inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\), ss. 170, 199\(2\); S.I. 2014/2718, art. 2\(a\)](#)

## 4 Assessments etc. for adoption support services

- (1) A local authority must at the request of—
- (a) any of the persons mentioned in paragraphs (a) to (c) of section 3(1), or
  - (b) any other person who falls within a description prescribed by regulations (subject to subsection (7)(a)),
- carry out an assessment of that person’s needs for adoption support services.
- (2) A local authority may, at the request of any person, carry out an assessment of that person’s needs for adoption support services.
- (3) A local authority may request the help of the persons mentioned in paragraph (a) or (b) of section 3(4) in carrying out an assessment.
- (4) Where, as a result of an assessment, a local authority decide that a person has needs for adoption support services, they must then decide whether to provide any such services to that person.
- (5) If—
- (a) a local authority decide to provide any adoption support services to a person, and
  - (b) the circumstances fall within a description prescribed by regulations,

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the local authority must prepare a plan in accordance with which adoption support services are to be provided to the person and keep the plan under review.

- (6) Regulations may make provision about assessments, preparing and reviewing plans, the provision of adoption support services in accordance with plans and reviewing the provision of adoption support services.
- (7) The regulations may in particular make provision—
- (a) as to the circumstances in which a person mentioned in paragraph (b) of subsection (1) is to have a right to request an assessment of his needs in accordance with that subsection,
  - (b) about the type of assessment which, or the way in which an assessment, is to be carried out,
  - (c) about the way in which a plan is to be prepared,
  - (d) about the way in which, and time at which, a plan or the provision of adoption support services is to be reviewed,
  - (e) about the considerations to which a local authority are to have regard in carrying out an assessment or review or preparing a plan,
  - (f) as to the circumstances in which a local authority may provide adoption support services subject to conditions,
  - (g) as to the consequences of conditions imposed by virtue of paragraph (f) not being met (including the recovery of any financial support provided by a local authority),
  - (h) as to the circumstances in which this section may apply to a local authority in respect of persons who are outside that local authority's area,
  - (i) as to the circumstances in which a local authority may recover from another local authority the expenses of providing adoption support services to any person.
- (8) A local authority may carry out an assessment of the needs of any person under this section at the same time as an assessment of his needs is made under any other enactment.
- (9) If at any time during the assessment of the needs of any person under this section, it appears to a local authority that—
- [<sup>F8</sup>(za) there may be a need for the provision to that person of services that may be provided pursuant to arrangements made by a clinical commissioning group under the National Health Service Act 2006 (including by virtue of section 7A of that Act),]
  - (a) there may be a need for the provision of services to that person by <sup>F9</sup>... (in Wales, a Health Authority or Local Health Board), or
  - (b) there may be a need for the provision to him of any services which fall within the [<sup>F10</sup>education functions (as defined in section 579(1) of the Education Act 1996) of another local authority (as defined in section 579(1) of that Act)],
- the local authority must notify that [<sup>F11</sup>clinical commissioning group,]<sup>F12</sup>... Health Authority, Local Health Board [<sup>F13</sup>or other local authority].
- (10) Where it appears to a local authority that another local authority could, by taking any specified action, help in the exercise of any of their functions under this section, they may request the help of that other local authority, specifying the action in question.

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- (11) A local authority whose help is so requested must comply with the request if it is consistent with the exercise of their functions.

#### Textual Amendments

- F8** S. 4(9)(za) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 105(a)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F9** Words in s. 4(9)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 105(b)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F10** Words in s. 4(9) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 50(2)(a)**
- F11** Words in s. 4(9) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 105(c)(i)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F12** Words in s. 4(9) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 105(c)(ii)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F13** Words in s. 4(9) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 50(2)(b)**

#### Modifications etc. (not altering text)

- C2** S. 4 applied (temp.) (W.) (30.12.2005) by [The Adoption Support Services \(Local Authorities\) \(Wales\) Regulations 2005 \(S.I. 2005/1512\)](#), art. 1(1), **reg. 15**

#### Commencement Information

- I11** S. 4(1)(a)(2)-(4)(8)-(11) in force at 30.12.2005 for W. by [S.I. 2005/3112](#), **art. 2(a)**
- I12** S. 4(1)(a)(2)-(4)(8)-(11) in force at 30.12.2005 for E. by [S.I. 2005/2213](#), **art. 3(b)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)
- I13** S. 4(1)(b)(5) in force at 7.2.2004 for specified purposes for W. by [S.I. 2004/252](#), **art. 2(c)**
- I14** S. 4(1)(b)(5) in force at 7.12.2004 for specified purposes for E. by [S.I. 2004/3203](#), **art. 2(1)(m)(i)**
- I15** S. 4(1)(b)(5) in force at 30.12.2005 for E. in so far as not already in force by [S.I. 2005/2213](#), **art. 3(b)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)
- I16** S. 4(1)(b)(5) in force at 30.12.2005 for W. in so far as not already in force by [S.I. 2005/3112](#), **art. 2(a)**
- I17** S. 4(6)(7)(b)-(i) in force at 10.3.2003 for specified purposes for E. by [S.I. 2003/366](#), **art. 2(2)(b)**
- I18** S. 4(6)(7)(b)-(i) in force at 6.10.2003 for E. in so far as not already in force by [S.I. 2003/366](#), **art. 2(6)(b)**
- I19** S. 4(6)(7) in force at 7.2.2004 for W. by [S.I. 2004/252](#), **art. 2(b)**
- I20** S. 4(7)(a) in force at 7.12.2004 for E. by [S.I. 2004/3203](#), **art. 2(1)(b)**

### [<sup>F14</sup>4B Adoption support services: duty to provide information

- (1) Except in circumstances prescribed by regulations, a local authority in England must provide the information specified in subsection (2) to—
- (a) any person who has contacted the authority to request information about adopting a child,
  - (b) any person who has informed the authority that he or she wishes to adopt a child,
  - (c) any person within the authority's area who the authority are aware is a parent of an adopted child, and
  - (d) any person within the authority's area who is a parent of an adopted child and has contacted the authority to request any of the information specified in subsection (2).

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(2) The information is—

- (a) information about the adoption support services available to people in the authority's area;
- (b) information about the right to request an assessment under section 4 (assessments etc for adoption support services), and the authority's duties under that section and regulations made under it;
- (c) information about the authority's duties under section 4A (adoption support services: personal budgets) and regulations made under it;
- (d) any other information prescribed by regulations.]

#### Textual Amendments

**F14** S. 4B inserted (25.7.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 6, 139\(6\)](#); S.I. 2014/889, art. 6(c)

PROSPECTIVE

#### **F15** Local authority plans for adoption services

#### Textual Amendments

**F15** S. 5 repealed (1.3.2005 for E., 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 2(h)

## 6 Arrangements on cancellation of registration

Where, by virtue of the cancellation of its registration under Part 2 of the Care Standards Act 2000 (c. 14) [<sup>F16</sup>or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)], a body has ceased to be a registered adoption society, the appropriate Minister may direct the body to make such arrangements as to the transfer of its functions relating to children and other transitional matters as seem to him expedient.

#### Textual Amendments

**F16** Words in [s. 6](#) inserted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\)](#), [regs. 1\(2\), 16](#)

#### Commencement Information

**I21** S. 6 in force at 30.12.2005 for W. by [S.I. 2005/3112](#), [art. 2\(b\)](#)

**I22** S. 6 in force at 30.12.2005 for E. by [S.I. 2005/2213](#), [art. 3\(c\)](#) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)



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## 7 Inactive or defunct adoption societies etc.

- (1) This section applies where it appears to the appropriate Minister that—
  - (a) a body which is or has been a registered adoption society is inactive or defunct, or
  - (b) a body which has ceased to be a registered adoption society by virtue of the cancellation of its registration under Part 2 of the Care Standards Act 2000 [F17 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016] has not made such arrangements for the transfer of its functions relating to children as are specified in a direction given by him.
- (2) The appropriate Minister may, in relation to such functions of the society as relate to children, 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.
- (3) A local authority are entitled to take any action which—
  - (a) apart from this subsection the authority would not be entitled to take, or would not be entitled to take without joining the society in the action, but
  - (b) they are directed to take under subsection (2).
- (4) The appropriate Minister may charge the society for expenses necessarily incurred by him or on his behalf in securing the transfer of its functions relating to children.
- (5) Before giving a direction under subsection (2) the appropriate Minister must, if practicable, consult both the society and the authority.

### Textual Amendments

**F17** Words in s. 7(1)(b) inserted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\)](#), regs. 1(2), 17

### Commencement Information

**I23** S. 7 in force at 30.12.2005 for E. by [S.I. 2005/2213](#), art. 3(d) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

**I24** S. 7 in force at 30.12.2005 for W. by [S.I. 2005/3112](#), art. 2(b)

## 8 Adoption support agencies

- (1) In this Act, “adoption support agency” means an undertaking the purpose of which, or one of the purposes of which, is the provision of adoption support services; but an undertaking is not an adoption support agency—
  - (a) merely because it provides information in connection with adoption other than for the purpose mentioned in section 98(1), or
  - (b) if it is excepted by virtue of subsection (2).“Undertaking” has the same meaning as in the Care Standards Act 2000 (c. 14).
- (2) The following are excepted—
  - (a) a registered adoption society, whether or not the society is registered in respect of the provision of adoption support services,
  - (b) a local authority,
  - <sup>F18</sup>(c) .....

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- [<sup>F19</sup>(ca) the National Health Service Commissioning Board,]
  - (d) a Special Health Authority <sup>F20</sup>... [<sup>F21</sup>, clinical commissioning group] (in Wales, a Health Authority or Local Health Board) [<sup>F22</sup>, NHS trust or NHS foundation trust],
  - (e) the Registrar General,
  - (f) any person, or description of persons, excepted by regulations.
- (3) In section 4 of the Care Standards Act 2000 (basic definitions)—
  - (a) after subsection (7) there is inserted—
    - “(7A) “Adoption support agency” has the meaning given by section 8 of the Adoption and Children Act 2002.”,
  - (b) in subsection (9)(a) (construction of references to descriptions of agencies), for “or a voluntary adoption agency” there is substituted “ a voluntary adoption agency or an adoption support agency ”.
- [<sup>F23</sup>(4) In this section “local authority” includes any body that is a local authority as defined in section 579(1) of the Education Act 1996 (in addition to the bodies mentioned in the definition in section 144(1)).]

#### Textual Amendments

- F18** S. 8(2)(c) repealed (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 50(3)(a), **Sch. 3 Pt. 2**
- F19** S. 8(2)(ca) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 106(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F20** Words in s. 8(2)(d) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 106(b)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F21** Words in s. 8(2)(d) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 106(b)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F22** Words in s. 8(2)(d) substituted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 4 para. 126**; S.I. 2004/759, art. 2
- F23** S. 8(4) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 50(3)(b)**

#### Commencement Information

- I25** S. 8 in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, **art. 2(1)(m)(ii)**
- I26** S. 8 in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, **art. 3(e)** (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)
- I27** S. 8 in force at 30.12.2005 for W. by S.I. 2005/3112, **art. 2(b)**

### Regulations

## 9 General power to regulate adoption etc. agencies

- (1) Regulations may make provision for any purpose relating to—
  - (a) the exercise by local authorities or voluntary adoption agencies of their functions in relation to adoption, or
  - (b) the exercise by adoption support agencies of their functions in relation to adoption.

**Status:** Point in time view as at 29/04/2019. This version of this chapter contains provisions that are prospective.

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- (2) The extent of the power to make regulations under this section is not limited by sections 10 to 12, 45, 54, 56 to 65 and 98 or by any other powers exercisable in respect of local authorities, voluntary adoption agencies or adoption support agencies.
- (3) Regulations may provide that a person who contravenes or fails to comply with any provision of regulations under this section is to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) In this section and section 10, “voluntary adoption agency” means a voluntary organisation which is an adoption society.

#### Commencement Information

**I28** S. 9 in force at 7.2.2004 for W. by S.I. 2004/252, art. 2(b)

**I29** S. 9 in force at 7.12.2004 for E. by S.I. 2004/3203, art. 2(1)(c)

## 10 Management etc. of agencies

- (1) In relation to local authorities, voluntary adoption agencies and adoption support agencies, regulations under section 9 may make provision as to—
  - (a) the persons who are fit to work for them for the purposes of the functions mentioned in section 9(1),
  - (b) the fitness of premises,
  - (c) the management and control of their operations,
  - (d) the number of persons, or persons of any particular type, working for the purposes of those functions,
  - (e) the management and training of persons working for the purposes of those functions,
  - (f) the keeping of information.
- (2) Regulations made by virtue of subsection (1)(a) may, in particular, make provision for prohibiting persons from working in prescribed positions unless they are registered in, or in a particular part of, one of the registers maintained under [F24 section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)] (registration of social care workers).
- (3) In relation to voluntary adoption agencies and adoption support agencies, regulations under section 9 may—
  - (a) make provision as to the persons who are fit to manage an agency, including provision prohibiting persons from doing so unless they are registered in, or in a particular part of, one of the registers referred to in subsection (2),
  - (b) impose requirements as to the financial position of an agency,
  - (c) make provision requiring the appointment of a manager,
  - (d) in the case of a voluntary adoption agency, make provision for securing the welfare of children placed by the agency, including provision as to the promotion and protection of their health,
  - (e) in the case of an adoption support agency, make provision as to the persons who are fit to carry on the agency.

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- (4) Regulations under section 9 may make provision as to the conduct of voluntary adoption agencies and adoption support agencies, and may in particular make provision—
- (a) as to the facilities and services to be provided by an agency,
  - (b) as to the keeping of accounts,
  - (c) as to the notification to the registration authority of events occurring in premises used for the purposes of an agency,
  - (d) as to the giving of notice to the registration authority of periods during which the manager of an agency proposes to be absent, and specifying the information to be given in such a notice,
  - (e) as to the making of adequate arrangements for the running of an agency during a period when its manager is absent,
  - (f) as to the giving of notice to the registration authority of any intended change in the identity of the manager,
  - (g) as to the giving of notice to the registration authority of changes in the ownership of an agency or the identity of its officers,
  - (h) requiring the payment of a prescribed fee to the registration authority in respect of any notification required to be made by virtue of paragraph (g),
  - (i) requiring arrangements to be made for dealing with complaints made by or on behalf of those seeking, or receiving, any of the services provided by an agency and requiring the agency or manager to take steps for publicising the arrangements.

#### Textual Amendments

**F24** Words in s. 10(2) substituted (3.4.2017) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 46](#); S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

#### Commencement Information

**I30** S. 10 in force at 7.2.2004 for W. by S.I. 2004/252, art. 2(b)

**I31** S. 10 in force at 7.12.2004 for E. by S.I. 2004/3203, art. 2(1)(d)

## 11 Fees

- (1) Regulations under section 9 may prescribe—
- (a) the fees which may be charged by adoption agencies in respect of the provision of services to persons providing facilities as part of the Adoption Service (including the Adoption Services in Scotland and Northern Ireland),
  - (b) the fees which may be paid by adoption agencies to persons providing or assisting in providing such facilities.
- (2) Regulations under section 9 may prescribe the fees which may be charged by local authorities in respect of the provision of prescribed facilities of the Adoption Service where the following conditions are met.
- (3) The conditions are that the facilities are provided in connection with—
- (a) the adoption of a child brought into the United Kingdom for the purpose of adoption, or
  - (b) a Convention adoption, an overseas adoption or an adoption effected under the law of a country or territory outside the British Islands.

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- (4) Regulations under section 9 may prescribe the fees which may be charged by adoption agencies in respect of the provision of counselling, where the counselling is provided in connection with the disclosure of information in relation to a person's adoption.

#### Commencement Information

**I32** S. 11 in force at 7.2.2004 for W. by S.I. 2004/252, art. 2(b)

**I33** S. 11 in force at 7.12.2004 for E. by S.I. 2004/3203, art. 2(1)(e)

## 12 Independent review of determinations

- (1) Regulations under section 9 may establish a procedure under which any person in respect of whom a qualifying determination has been made by an adoption agency may apply to <sup>F25</sup>... the appropriate Minister for a review of that determination [<sup>F26</sup>by a panel constituted by that Minister].
- (2) The regulations must make provision as to the description of determinations which are qualifying determinations for the purposes of subsection (1).
- (3) The regulations may include provision as to—
- the duties and powers of a panel <sup>F27</sup>...,
  - the administration and procedures of a panel,
  - the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment),
  - the payment of [<sup>F28</sup>fees to] members of a panel,
  - the duties of adoption agencies in connection with reviews conducted under the regulations,
  - the monitoring of any such reviews.
- [<sup>F29</sup>(3A) Regulations made by virtue of subsection (3)(e) may impose a duty to pay to the appropriate Minister such sum as that Minister may determine.
- (3B) The appropriate Minister must secure that, taking one financial year with another, the aggregate of the sums which become payable to him under regulations made by virtue of subsection (3A) does not exceed the cost to him of performing his independent review functions.]
- (4) The appropriate Minister may make an arrangement with an organisation under which [<sup>F30</sup>independent review functions] are performed by the organisation on his behalf.
- (5) If the appropriate Minister makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by the appropriate Minister.
- (6) The arrangement may include provision for payments to be made to the organisation by the appropriate Minister.
- [<sup>F31</sup>(6A) Payments made by the appropriate Minister in accordance with such provision shall be taken into account in determining (for the purpose of subsection (3B)) the cost to that Minister of performing his independent review functions.]

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(7) Where the appropriate Minister is the Assembly, subsections (4) and (6) also apply as if references to an organisation included references to the Secretary of State.

(8) In this section [F32—

“financial year” means a period of twelve months ending with 31st March,

“independent review function” means a function conferred or imposed on an appropriate Minister by regulations made by virtue of this section],

“organisation” includes a public body and a private or voluntary organisation.

#### Textual Amendments

- F25** Words in s. 12(1) repealed (12.2.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. [34\(2\)\(a\)](#), [44\(4\)](#), [Sch. 4](#); S.I. 2009/268, art. [3\(1\)\(f\)\(ii\)](#) (with art. 4); S.I. 2010/749, art. [2\(b\)](#)
- F26** Words in s. 12(1) inserted (12.2.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. [34\(2\)\(b\)](#), [44\(4\)](#); S.I. 2009/268, art. [3\(1\)\(f\)\(ii\)](#) (with art. 4); S.I. 2010/749, art. [2\(b\)](#)
- F27** Words in s. 12(3)(a) repealed (12.2.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. [34\(3\)](#), [44\(4\)](#), [Sch. 4](#); S.I. 2009/268, art. [3\(1\)\(f\)\(ii\)](#) (with art. 4); S.I. 2010/749, art. [2\(b\)](#)
- F28** Words in s. 12(3)(d) substituted (1.3.2005 for E., 30.12.2005 for W.) by [Children Act 2004 \(c. 31\)](#), ss. [57](#), [67\(7\)\(e\)](#); S.I. 2005/394, art. [2\(1\)\(i\)](#); S.I. 2005/3363, art. [2](#)
- F29** S. 12(3A)(3B) inserted (12.2.2009 for E. for specified purposes, 1.4.2009 for E. in so far as not already in force, 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. [34\(4\)](#), [44\(4\)](#); S.I. 2009/268, art. [3\(1\)\(f\)\(iii\)\(2\)\(a\)](#) (with art. 4); S.I. 2010/749, art. [2\(b\)](#)
- F30** Words in s. 12(4) substituted (1.4.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. [34\(5\)](#), [44\(4\)](#); S.I. 2009/268, art. [3\(2\)\(a\)](#); S.I. 2010/749, art. [2\(b\)](#)
- F31** S. 12(6A) inserted (1.4.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. [34\(6\)](#), [44\(4\)](#); S.I. 2009/268, art. [3\(2\)\(a\)](#); S.I. 2010/749, art. [2\(b\)](#)
- F32** Words in s. 12(8) inserted (1.4.2009 for E., 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. [34\(7\)](#), [44\(4\)](#); S.I. 2009/268, art. [3\(2\)\(a\)](#); S.I. 2010/749, art. [2\(b\)](#)

#### Commencement Information

- I34** S. 12(1)-(3) in force at 7.2.2004 for W. by S.I. 2004/252, [art. 2\(b\)](#)
- I35** S. 12(1)-(3) in force at 7.12.2004 for specified purposes for E. by S.I. 2004/3203, [art. 2\(1\)\(m\)\(iii\)](#)
- I36** S. 12(1)-(3) in force at 30.12.2005 for E. in so far as not already in force by S.I. 2005/2213, [art. 3\(f\)](#) (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)
- I37** S. 12(4)-(8) in force at 30.12.2005 for E. by S.I. 2005/2213, [art. 3\(f\)](#) (with savings and transitional provisions in S.I. 2005/2897, arts. 3-16)
- I38** S. 12(4)-(8) in force at 30.12.2005 for W. by S.I. 2005/3112, [art. 2\(c\)](#)

### Supplemental

## 13 Information concerning adoption

(1) Each adoption agency must give to the appropriate Minister any statistical or other general information he requires about—

- (a) its performance of all or any of its functions relating to adoption,
- (b) the children and other persons in relation to whom it has exercised those functions.

(2) The following persons—

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- [<sup>F33</sup>(aa) the relevant officer of the family court, and]
- (c) the relevant officer of the High Court,
- must give to the appropriate Minister any statistical or other general information he requires about the proceedings under this Act of the court in question.
- (3) In subsection (2), “relevant officer”, in relation to [<sup>F34</sup>the family] court or the High Court, means the officer of that court who is designated to act for the purposes of that subsection by a direction given by the Lord Chancellor.
- (4) The information required to be given to the appropriate Minister under this section must be given at the times, and in the form, directed by him.
- (5) The appropriate Minister may publish from time to time abstracts of the information given to him under this section.

#### Textual Amendments

- F33** S. 13(2)(aa) substituted for s. 13(2)(a)(b) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 152\(a\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F34** Words in s. 13(3) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 152\(b\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

#### Commencement Information

- I39** S. 13 in force at 30.12.2005 for W. by [S.I. 2005/3112](#), art. 2(d)
- I40** S. 13 in force at 30.12.2005 for E. by [S.I. 2005/2213](#), art. 3(g) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

## 14 Default power of appropriate Minister

- (1) If the appropriate Minister is satisfied that any local authority have failed, without reasonable excuse, to comply with any of the duties imposed on them by virtue of this Act or of section 1 or 2(4) of the Adoption (Intercountry Aspects) Act 1999 (c. 18), he may make an order declaring that authority to be in default in respect of that duty.
- (2) An order under subsection (1) must give the appropriate Minister’s reasons for making it.
- (3) An order under subsection (1) may contain such directions as appear to the appropriate Minister to be necessary for the purpose of ensuring that, within the period specified in the order, the duty is complied with.
- (4) Any such directions are enforceable, on the appropriate Minister’s application, by a mandatory order.

#### Commencement Information

- I41** S. 14 in force at 30.12.2005 for E. by [S.I. 2005/2213](#), art. 3(h) (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)
- I42** S. 14 in force at 30.12.2005 for W. by [S.I. 2005/3112](#), art. 2(d)

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## 15 Inspection of premises etc.

- (1) The appropriate Minister may arrange for any premises in which—
  - (a) a child is living with a person with whom the child has been placed by an adoption agency, or
  - (b) a child in respect of whom a notice of intention to adopt has been given under section 44 is, or will be, living,
 to be inspected from time to time.
- (2) The appropriate Minister may require an adoption agency—
  - (a) to give him any information, or
  - (b) to allow him to inspect any records (in whatever form they are held),
 relating to the discharge of any of its functions in relation to adoption which the appropriate Minister specifies.
- (3) An inspection under this section must be conducted by a person authorised by the appropriate Minister.
- (4) An officer of a local authority may only be so authorised with the consent of the authority.
- (5) A person inspecting any premises under subsection (1) may—
  - (a) visit the child there,
  - (b) make any examination into the state of the premises and the treatment of the child there which he thinks fit.
- (6) A person authorised to inspect any records under this section may at any reasonable time have access to, and inspect and check the operation of, any computer (and associated apparatus) which is being or has been used in connection with the records in question.
- (7) A person authorised to inspect any premises or records under this section may—
  - (a) enter the premises for that purpose at any reasonable time,
  - (b) require any person to give him any reasonable assistance he may require.
- (8) A person exercising a power under this section must, if required to do so, produce a duly authenticated document showing his authority.
- (9) Any person who intentionally obstructs another in the exercise of a power under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### Commencement Information

**I43** S. 15 in force at 30.12.2005 for W. by [S.I. 2005/3112](#), **art. 2(d)**

**I44** S. 15 in force at 30.12.2005 for E. by [S.I. 2005/2213](#), **art. 3(i)** (with savings and transitional provisions in [S.I. 2005/2897](#), arts. 3-16)

## F<sup>35</sup> 16 Distribution of functions in relation to registered adoption societies

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**Textual Amendments**

**F35** S. 16 omitted (29.4.2019) by virtue of [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\)](#), regs. 1(2), **18**

PROSPECTIVE

<sup>F36</sup>**17 Inquiries**

.....

**Textual Amendments**

**F36** S. 17 repealed (7.6.2005) by [Inquiries Act 2005 \(c. 12\)](#), s. 51(1), Sch. 2 para. 23, **Sch. 3** (with ss. 44, 50); S.I. 2005/1432, art. 2

**Status:**

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**Changes to legislation:**

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