

## SCHEDULES

### SCHEDULE 1

Section 77(6)

#### REGISTRATION OF ADOPTIONS

##### *Registration of adoption orders*

- 1 (1) Every adoption order must contain a direction to the Registrar General to make in the Adopted Children Register an entry in the form prescribed by regulations made by the Registrar General with the approval of the Chancellor of the Exchequer.
- (2) Where, on an application to a court for an adoption order in respect of a child, the identity of the child with a child to whom an entry in the registers of live-births or other records relates is proved to the satisfaction of the court, any adoption order made in pursuance of the application must contain a direction to the Registrar General to secure that the entry in the register or, as the case may be, record in question is marked with the word “Adopted”.
- (3) Where an adoption order is made in respect of a child who has previously been the subject of an adoption order made by a court in England or Wales under Part 1 of this Act or any other enactment—
  - (a) sub-paragraph (2) does not apply, and
  - (b) the order must contain a direction to the Registrar General to mark the previous entry in the Adopted Children Register with the word “Re-adopted”.
- (4) Where an adoption order is made, the prescribed officer of the court which made the order must communicate the order to the Registrar General in the prescribed manner; and the Registrar General must then comply with the directions contained in the order.

“Prescribed” means prescribed by rules.

##### *Registration of adoptions in Scotland, Northern Ireland, the Isle of Man and the Channel Islands*

- 2 (1) Sub-paragraphs (2) and (3) apply where the Registrar General is notified by the authority maintaining a register of adoptions in a part of the British Islands outside England and Wales that an order has been made in that part authorising the adoption of a child.
- (2) If an entry in the registers of live-births or other records (and no entry in the Adopted Children Register) relates to the child, the Registrar General must secure that the entry is marked with—
  - (a) the word “Adopted”, followed by
  - (b) the name, in brackets, of the part in which the order was made.
- (3) If an entry in the Adopted Children Register relates to the child, the Registrar General must mark the entry with—

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- (a) the word “Re-adopted”, followed by
  - (b) the name, in brackets, of the part in which the order was made.
- (4) Where, after an entry in either of the registers or other records mentioned in sub-paragraphs (2) and (3) has been so marked, the Registrar General is notified by the authority concerned that—
- (a) the order has been quashed,
  - (b) an appeal against the order has been allowed, or
  - (c) the order has been revoked,
- the Registrar General must secure that the marking is cancelled.
- (5) A copy or extract of an entry in any register or other record, being an entry the marking of which is cancelled under sub-paragraph (4), is not to be treated as an accurate copy unless both the marking and the cancellation are omitted from it.

### *Registration of other adoptions*

- 3 (1) If the Registrar General is satisfied, on an application under this paragraph, that he has sufficient particulars relating to a child adopted under a registrable foreign adoption to enable an entry to be made in the Adopted Children Register for the child he must make the entry accordingly.
- (2) If he is also satisfied that an entry in the registers of live-births or other records relates to the child, he must—
- (a) secure that the entry is marked “Adopted”, followed by the name, in brackets, of the country in which the adoption was effected, or
  - (b) where appropriate, secure that the overseas registers of births are so marked.
- (3) An application under this paragraph must be made, in the prescribed manner, by a prescribed person and the applicant must provide the prescribed documents and other information.
- (4) An entry made in the Adopted Children Register by virtue of this paragraph must be made in the prescribed form.
- (5) In this Schedule “registrable foreign adoption” means an adoption which satisfies prescribed requirements and is either—
- (a) adoption under a Convention adoption, or
  - (b) adoption under an overseas adoption.
- (6) In this paragraph—
- (a) “prescribed” means prescribed by regulations made by the Registrar General with the approval of the Chancellor of the Exchequer,
  - (b) “overseas register of births” includes—
    - (i) a register made under regulations made by the Secretary of State under section 41(1)(g), (h) or (i) of the British Nationality Act 1981 (c. 61),
    - (ii) a record kept under an Order in Council made under section 1 of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58) (other than a certified copy kept by the Registrar General).

*Amendment of orders and rectification of Registers and other records*

- 4 (1) The court by which an adoption order has been made may, on the application of the adopter or the adopted person, amend the order by the correction of any error in the particulars contained in it.
- (2) The court by which an adoption order has been made may, if satisfied on the application of the adopter or the adopted person that within the period of one year beginning with the date of the order any new name—
- (a) has been given to the adopted person (whether in baptism or otherwise), or
  - (b) has been taken by the adopted person,
- either in place of or in addition to a name specified in the particulars required to be entered in the Adopted Children Register in pursuance of the order, amend the order by substituting or, as the case may be, adding that name in those particulars.
- (3) The court by which an adoption order has been made may, if satisfied on the application of any person concerned that a direction for the marking of an entry in the registers of live-births, the Adopted Children Register or other records included in the order in pursuance of paragraph 1(2) or (3) was wrongly so included, revoke that direction.
- (4) Where an adoption order is amended or a direction revoked under sub-paragraphs (1) to (3), the prescribed officer of the court must communicate the amendment in the prescribed manner to the Registrar General.
- “Prescribed” means prescribed by rules.
- (5) The Registrar General must then—
- (a) amend the entry in the Adopted Children Register accordingly, or
  - (b) secure that the marking of the entry in the registers of live-births, the Adopted Children Register or other records is cancelled,
- as the case may be.
- (6) Where an adoption order is quashed or an appeal against an adoption order allowed by any court, the court must give directions to the Registrar General to secure that—
- (a) any entry in the Adopted Children Register, and
  - (b) any marking of an entry in that Register, the registers of live-births or other records as the case may be, which was effected in pursuance of the order,
- is cancelled.
- (7) Where an adoption order has been amended, any certified copy of the relevant entry in the Adopted Children Register which may be issued pursuant to section 78(2)(b) must be a copy of the entry as amended, without the reproduction of—
- (a) any note or marking relating to the amendment, or
  - (b) any matter cancelled in pursuance of it.
- (8) A copy or extract of an entry in any register or other record, being an entry the marking of which has been cancelled, is not to be treated as an accurate copy unless both the marking and the cancellation are omitted from it.
- (9) If the Registrar General is satisfied—
- (a) that a registrable foreign adoption has ceased to have effect, whether on annulment or otherwise, or

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- (b) that any entry or mark was erroneously made in pursuance of paragraph 3 in the Adopted Children Register, the registers of live-births, the overseas registers of births or other records,

he may secure that such alterations are made in those registers or other records as he considers are required in consequence of the adoption ceasing to have effect or to correct the error.

“Overseas register of births” has the same meaning as in paragraph 3.

- (10) Where an entry in such a register is amended in pursuance of sub-paragraph (9), any copy or extract of the entry is not to be treated as accurate unless it shows the entry as amended but without indicating that it has been amended.

*Marking of entries on re-registration of birth on legitimation*

- 5 (1) Without prejudice to paragraphs 2(4) and 4(5), where, after an entry in the registers of live-births or other records has been marked in accordance with paragraph 1 or 2, the birth is re-registered under section 14 of the Births and Deaths Registration Act 1953 (c. 20) (re-registration of births of legitimated persons), the entry made on the re-registration must be marked in the like manner.
- (2) Without prejudice to paragraph 4(9), where an entry in the registers of live-births or other records is marked in pursuance of paragraph 3 and the birth in question is subsequently re-registered under section 14 of that Act, the entry made on re-registration must be marked in the like manner.

*Cancellations in registers on legitimation*

- 6 (1) This paragraph applies where an adoption order is revoked under section 55(1).
- (2) The prescribed officer of the court must communicate the revocation in the prescribed manner to the Registrar General who must then cancel or secure the cancellation of—
- (a) the entry in the Adopted Children Register relating to the adopted person, and
  - (b) the marking with the word “Adopted” of any entry relating to the adopted person in the registers of live-births or other records.
- “Prescribed” means prescribed by rules.
- (3) A copy or extract of an entry in any register or other record, being an entry the marking of which is cancelled under this paragraph, is not to be treated as an accurate copy unless both the marking and the cancellation are omitted from it.

SCHEDULE 2

Section 79(6)

DISCLOSURE OF BIRTH RECORDS BY REGISTRAR GENERAL

- 1 On an application made in the prescribed manner by an adopted person—
- (a) a record of whose birth is kept by the Registrar General, and
  - (b) who has attained the age of 18 years,
- the Registrar General must give the applicant any information necessary to enable the applicant to obtain a certified copy of the record of his birth.

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“Prescribed” means prescribed by regulations made by the Registrar General with the approval of the Chancellor of the Exchequer.

- 2 (1) Before giving any information to an applicant under paragraph 1, the Registrar General must inform the applicant that counselling services are available to the applicant—
- (a) from a registered adoption society, an organisation within section 144(3)(b) or an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)),
  - (b) if the applicant is in England and Wales, at the General Register Office or from any local authority or registered adoption support agency,
  - (c) if the applicant is in Scotland, from any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
  - (d) if the applicant is in Northern Ireland, from any Board.
- (2) In sub-paragraph (1)(b), “registered adoption support agency” means an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000 (c. 14).
- (3) In sub-paragraph (1)(d), “Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)); but where the functions of a Board are exercisable by a Health and Social Services Trust, references in that sub-paragraph to a Board are to be read as references to the Health and Social Services Trust.
- (4) If the applicant chooses to receive counselling from a person or body within sub-paragraph (1), the Registrar General must send to the person or body the information to which the applicant is entitled under paragraph 1.
- 3 (1) Where an adopted person who is in England and Wales—
- (a) applies for information under paragraph 1 or Article 54 of the Adoption (Northern Ireland) Order 1987, or
  - (b) is supplied with information under section 45 of the Adoption (Scotland) Act 1978 (c. 28),
- the persons and bodies mentioned in sub-paragraph (2) must, if asked by the applicant to do so, provide counselling for the applicant.
- (2) Those persons and bodies are—
- (a) the Registrar General,
  - (b) any local authority,
  - (c) a registered adoption society, an organisation within section 144(3)(b) or an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987.
- 4 (1) Where a person—
- (a) was adopted before 12th November 1975, and
  - (b) applies for information under paragraph 1,
- the Registrar General must not give the information to the applicant unless the applicant has attended an interview with a counsellor arranged by a person or body from whom counselling services are available as mentioned in paragraph 2.

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- (2) Where the Registrar General is prevented by sub-paragraph (1) from giving information to a person who is not living in the United Kingdom, the Registrar General may give the information to any body which—
- (a) the Registrar General is satisfied is suitable to provide counselling to that person, and
  - (b) has notified the Registrar General that it is prepared to provide such counselling.

### SCHEDULE 3

Section 139

#### MINOR AND CONSEQUENTIAL AMENDMENTS

*The Marriage Act 1949 (c. 76)*

- 1 Section 3 of the Marriage Act 1949 (marriage of person aged under eighteen) is amended as follows.
- 2 In subsection (1), for “person or persons specified in subsection (1A) of this section” there is substituted “appropriate persons”.
- 3 For subsection (1A) there is substituted—
  - “(1A) The appropriate persons are—
    - (a) if none of paragraphs (b) to (h) apply, each of the following—
      - (i) any parent of the child who has parental responsibility for him; and
      - (ii) any guardian of the child;
    - (b) where a special guardianship order is in force with respect to a child, each of the child’s special guardians, unless any of paragraphs (c) to (g) applies;
    - (c) where a care order has effect with respect to the child, the local authority designated in the order, and each parent, guardian or special guardian (in so far as their parental responsibility has not been restricted under section 33(3) of the Children Act 1989), unless paragraph (e) applies;
    - (d) where a residence order has effect with respect to the child, the persons with whom the child lives, or is to live, as a result of the order, unless paragraph (e) applies;
    - (e) where an adoption agency is authorised to place the child for adoption under section 19 of the Adoption and Children Act 2002, that agency or, where a care order has effect with respect to the child, the local authority designated in the order;
    - (f) where a placement order is in force with respect to the child, the appropriate local authority;
    - (g) where a child has been placed for adoption with prospective adopters, the prospective adopters (in so far as their parental responsibility has not been restricted under section 25(4) of the Adoption and Children Act 2002), in addition to those persons specified in paragraph (e) or (f);

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- (h) where none of paragraphs (b) to (g) apply but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the persons with whom he lived, or was to live, as a result of the order.”

4 For subsection (1B) there is substituted—

“(1B) In this section—

“guardian of a child”, “parental responsibility”, “residence order”, “special guardian”, “special guardianship order” and “care order” have the same meaning as in the Children Act 1989;

“adoption agency”, “placed for adoption”, “placement order” and “local authority” have the same meaning as in the Adoption and Children Act 2002;

“appropriate local authority” means the local authority authorised by the placement order to place the child for adoption.”

5 In subsection (2), for “The last foregoing subsection” there is substituted “Subsection (1)”.

#### *The Births and Deaths Registration Act 1953 (c. 20)*

6 In section 10 of the Births and Deaths Registration Act 1953 (registration of father where parents not married)—

- (a) in subsection (1)(d)(i), for “a parental responsibility agreement made between them in relation to the child” there is substituted “any agreement made between them under section 4(1)(b) of the Children Act 1989 in relation to the child”,
- (b) in subsection (1)(d)(ii), for “the Children Act 1989” there is substituted “that Act”,
- (c) in subsection (3), the words following “the Family Law Reform Act 1987” are omitted.

7 In section 10A of the Births and Deaths Registration Act 1953 (re-registration of father where parents not married)—

- (a) in subsection (1)(d)(i), for “a parental responsibility agreement made between them in relation to the child” there is substituted “any agreement made between them under section 4(1)(b) of the Children Act 1989 in relation to the child”,
- (b) in subsection (1)(d)(ii), for “the Children Act 1989” there is substituted “that Act”.

#### *The Sexual Offences Act 1956 (c. 69)*

8 In section 28 of the Sexual Offences Act 1956 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under sixteen), in subsection (4), the “or” at the end of paragraph (a) is omitted, and after that paragraph there is inserted—

“(aa) a special guardianship order under that Act is in force with respect to her and he is not her special guardian; or”.

#### *The Health Services and Public Health Act 1968 (c. 46)*

9 The Health Services and Public Health Act 1968 is amended as follows.

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- 10 In section 64 (financial assistance by the Secretary of State to certain voluntary organisations), in subsection (3)(a)(xviii), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.
- 11 In section 65 (financial and other assistance by local authorities to certain voluntary organisations), in subsection (3)(b), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.

*The Local Authority Social Services Act 1970 (c. 42)*

- 12 The Local Authority Social Services Act 1970 is amended as follows.
- 13 In section 7D (default powers of Secretary of State as respects social services functions of local authorities), in subsection (1), after “the Children Act 1989” there is inserted “section 1 or 2(4) of the Adoption (Intercountry Aspects) Act 1999 or the Adoption and Children Act 2002”.
- 14 In Schedule 1 (enactments conferring functions assigned to social services committee)—
- (a) the entry relating to the Adoption Act 1976 is omitted,
  - (b) in the entry relating to the Children Act 1989, after “Consent to application for residence order in respect of child in care” there is inserted “Functions relating to special guardianship orders”,
  - (c) in the entry relating to the Adoption (Intercountry Aspects) Act 1999—
    - (i) in the first column, for “Section” there is substituted “Sections 1 and”,
    - (ii) in the second column, for “Article 9(a) to (c) of” there is substituted “regulations made under section 1 giving effect to” and at the end there is inserted “and functions under Article 9(a) to (c) of the Convention”,
- and at the end of the Schedule there is inserted—

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“Adoption and Children Act 2002	Maintenance of Adoption Service; functions of local authority as adoption agency.”
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*The Immigration Act 1971 (c. 77)*

- 15 In section 33(1) of the Immigration Act 1971 (interpretation)—
- (a) in the definition of “Convention adoption”, after “1978” there is inserted “or in the Adoption and Children Act 2002”,
  - (b) in the definition of “legally adopted”, for “section 72(2) of the Adoption Act 1976” there is substituted “section 87 of the Adoption and Children Act 2002”.

*The Legitimacy Act 1976 (c. 31)*

- 16 The Legitimacy Act 1976 is amended as follows.
- 17 In section 4 (legitimation of adopted child)—
- (a) in subsection (1), after “1976” there is inserted “or section 67 of the Adoption and Children Act 2002”,
  - (b) in subsection (2)—



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- (i) in paragraph (a), after “39” there is inserted “or subsection (3)(b) of the said section 67”;
- (ii) in paragraph (b), after “1976” there is inserted “or section 67, 68 or 69 of the Adoption and Children Act 2002”.

18 In section 6 (dispositions depending on date of birth), at the end of subsection (2) there is inserted “or section 69(2) of the Adoption and Children Act 2002”.

*The Adoption Act 1976 (c. 36)*

19 In section 38 of the Adoption Act 1976 (meaning of “adoption” in Part 4), in subsection (2), after “1975” there is inserted “but does not include an adoption of a kind mentioned in paragraphs (c) to (e) of subsection (1) effected on or after the day which is the appointed day for the purposes of Chapter 4 of Part 1 of the Adoption and Children Act 2002”.

*The National Health Service Act 1977 (c. 49)*

20 In section 124A(3) of the National Health Service Act 1977 (information provided by the Registrar General to the Secretary of State), the “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted—

“(aa) entered in the Adopted Children Register maintained by the Registrar General under the Adoption and Children Act 2002; or”.

*The Adoption (Scotland) Act 1978 (c. 28)*

21 The Adoption (Scotland) Act 1978 is amended as follows.

22 In section 11 (restriction on arranging adoptions and placing of children)—

(a) in subsection (2)—

(i) for paragraph (a) there is substituted—

“(a) a registered adoption society (within the meaning of section 2(2) of the Adoption and Children Act 2002); and

(ii) for “section 1” there is substituted “section 3(1)”, and

(b) after subsection (2) there is inserted—

“(2A) In relation to the provision of any particular service by an adoption society, the reference in subsection (2)(a) to a registered adoption society does not include a voluntary organisation unless it is registered under Part 2 of the Care Standards Act 2000 in respect of that service or a service which, in England, corresponds to that service.”

23 In section 16 (parental agreement to adoption order)—

(a) in subsection (1), after paragraph (a) there is inserted—

“(aa) each parent or guardian of the child has consented under section 20 of the Adoption and Children Act 2002 (advance consent to adoption), has not withdrawn the consent and does not oppose the making of the adoption order;

(ab) subsection (3A) applies and no parent or guardian of the child opposes the making of the adoption order”, and

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(b) after subsection (3) there is inserted—

“(3A) This subsection applies where—

- (a) the child has been placed for adoption by an adoption agency (within the meaning of section 2(1) of the Adoption and Children Act 2002) with the prospective adopters in whose favour the adoption order is proposed to be made; and
- (b) the child was placed for adoption—
  - (i) under section 19 of that Act (placing children with parental consent) with the consent of each parent or guardian and the consent of the mother was given when the child was at least six weeks old; or
  - (ii) under an order made under section 21 of that Act (placement orders) and the child was at least six weeks old when that order was made.

(3B) A parent or guardian may not oppose the making of an adoption order under subsection (1)(aa) or (ab) without the leave of the court.

(3C) The court shall not give leave under subsection (3B) unless satisfied that there has been a change of circumstances since the consent of the parent or guardian was given or, as the case may be, the order under section 21 of that Act was made.

(3D) The withdrawal of—

- (a) any consent to the placement of a child for adoption—
  - (i) under section 19; or
  - (ii) under an order made under section 21, of the Adoption and Children Act 2002; or
- (b) any consent given under section 20 of that Act, is ineffective if it is given after an application for an adoption order is made.”

24 In section 29 (return of children taken away in breach of section 27 or 28)—

- (a) in subsection (1), for “section 27 or 28 of the Adoption Act 1976” there is substituted “section 30, 34, 35 or 36 of the Adoption and Children Act 2002”, and
- (b) in subsection (2), for “section 27 or 28 of the Adoption Act 1976”, in both places where those words occur, there is substituted “section 30, 34, 35 or 36 of the Adoption and Children Act 2002”.

25 In section 45 (Adopted Children Register)—

- (a) in subsection (6)(d), for sub-paragraph (ii) there is substituted—
  - “(ii) registered under Part II of the Care Standards Act 2000;”;
- (b) in subsection (6A)(b), for sub-paragraph (i) there is substituted—
  - “(i) Schedule 2 to the Adoption and Children Act 2002;”.

- 26 In section 47 (annulment etc. of overseas adoptions), in subsection (4), for “section 53 of the Adoption Act 1976” there is substituted “section 89(2) of the Adoption and Children Act 2002”.
- 27 In section 50 (restriction on removal of children for adoption outside Great Britain), in subsection (1), for “section 55 of the Adoption Act 1976” there is substituted “section 84 of the Adoption and Children Act 2002”.
- 28 Section 52 (restriction on advertisements) is omitted.
- 29 In section 53 (effect of determination and orders made in England and Wales and overseas in adoption proceedings), in subsection (2), the words “England and Wales or” are omitted.
- 30 After section 53 there is inserted—

#### **“53A Effect of certain orders made in England and Wales**

- (1) An adoption order (within the meaning of section 46(1) of the Adoption and Children Act 2002) has effect in Scotland as it has in England and Wales but as if any reference to the parental responsibility for the child were to the parental responsibilities and parental rights in relation to the child.
- (2) An order made under section 21 of that Act (placement orders), and the variation or revocation of such an order under section 23 or 24 of that Act, have effect in Scotland as they have in England and Wales but as if any reference to the parental responsibility for the child were to the parental responsibilities and parental rights in relation to the child.

#### **53B Effect of placing for adoption etc. under Adoption and Children Act 2002**

- (1) If—
- (a) a child is placed for adoption under section 19 of the Adoption and Children Act 2002 (placing children with parental consent); or
  - (b) an adoption agency is authorised to place a child for adoption under that section,
- sections 25 (parental responsibility) and 28(2) to (4) (further consequences of placement) of that Act have effect in Scotland as they have in England and Wales but with the modifications specified in subsection (2).
- (2) Those modifications are—
- (a) in section 25, any reference to the parental responsibility for the child is to be read as a reference to the parental responsibilities and parental rights in relation to the child; and
  - (b) in section 28(2), the reference to the court is to be read as a reference to the authorised court.

#### **53C Further consequences of placement and placement orders**

- (1) Subsection (2) applies where—
- (a) a child is placed for adoption under section 19 of the Adoption and Children Act 2002 (placing children with parental consent); or
  - (b) an adoption agency is authorised to place the child for adoption under that section.

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- (2) No order under subsection (1) of section 11 of the Children (Scotland) Act 1995 (court orders relating to parental responsibilities etc.) of a kind referred to in subsection (2)(c) (residence orders) of that section may be made in respect of the child.
- (3) On the making of an order under section 21 of the Adoption and Children Act 2002 (a “placement order”) in respect of a child, any order under subsection (1) of section 11 of the Children (Scotland) Act 1995 of a kind referred to in subsection (2)(c) to (f) (residence orders, contact orders, specific issue orders and interdicts in relation to parental responsibilities) of that section in respect of the child ceases to have effect.
- (4) Where a placement order is in force—
- (a) no such order as is referred to in subsection (3) of this section; and
  - (b) no order under section 55 of the Children (Scotland) Act 1995 (child assessment orders),
- may be made in respect of the child.”
- 31 In section 54 (evidence of adoption in England, Wales and Northern Ireland), in paragraph (a), for “section 50(2) of the Adoption Act 1976” there is substituted “section 77(4) and (5) of the Adoption and Children Act 2002”.
- 32 In section 56 (authorised courts), in subsection (3), for “Great Britain” there is substituted “Scotland”.
- 33 In section 59 (rules of procedure)—
- (a) in subsection (2)—
    - (i) for the words from “in relation to” to “adoption”, where it secondly occurs, there is substituted “(except where an order has been made freeing the child for adoption)”; and
    - (ii) for the words from “every” to “Act” there is substituted “any person mentioned in subsection (2A)”; and
  - (b) after subsection (2) there is inserted—
 

“(2A) The persons referred to in subsection (2) are—

    - (a) 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 or, if no such person can be found, any relative prescribed by rules who can be found;
    - (b) every person who has consented to the making of the order under section 20 of the Adoption and Children Act 2002 (and has not withdrawn the consent) unless he has given a notice under subsection (4)(a) of that section which has effect;
    - (c) every person who, if leave were given under section 16(3B), would be entitled to oppose the making of the order.”
- 34 In section 60 (orders, rules and regulations), after subsection (3) there is inserted—
- “(3A) An order under section 65(2) shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.”
- 35 In section 65 (interpretation), in subsection (1)—

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- (a) in the definition of “adoption agency”, for “section 1 of the Adoption Act 1976” there is substituted “section 2(1) of the Adoption and Children Act 2002”,
- (b) in the definition of “adoption order”—
  - (i) in paragraph (b), for “section 12 of the Adoption Act 1976” there is substituted “section 46 of the Adoption and Children Act 2002”,
  - (ii) in paragraph (c), for “section 55 of the Adoption Act 1976” there is substituted “section 84 of the Adoption and Children Act 2002”,and
- (c) in the definition of “order freeing a child for adoption”, paragraph (a) and the word “and” immediately following that paragraph are omitted.

#### *The Magistrates' Courts Act 1980 (c. 43)*

- 36 The Magistrates' Courts Act 1980 is amended as follows.
- 37 In section 65 (meaning of family proceedings), in subsection (1), for paragraph (h) there is substituted—
- “(h) the Adoption and Children Act 2002;”.
- 38 In section 69 (sitting of magistrates' courts for family proceedings), in subsections (2) and (3), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.
- 39 In section 71 (newspaper reports of family proceedings)—
- (a) in subsection (1), “(other than proceedings under the Adoption Act 1976)” is omitted,
  - (b) in subsection (2)—
    - (i) for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”,
    - (ii) the words following “(a) and (b)” are omitted.
- 40 In Part 1 of Schedule 6 (fees to be taken by justices' chief executives), in the entry relating to family proceedings—
- (a) for “the Adoption Act 1976, except under section 21 of that Act”, there is substituted “the Adoption and Children Act 2002, except under section 23 of that Act”,
  - (b) in paragraph (c), for “section 21 of the Adoption Act 1976” there is substituted “section 23 of the Adoption and Children Act 2002”.

#### *The Mental Health Act 1983 (c. 20)*

- 41 In section 28 of the Mental Health Act 1983 (nearest relative of minor under guardianship, etc.), in subsection (3), after ““guardian”” there is inserted “includes a special guardian (within the meaning of the Children Act 1989), but”.

#### *The Child Abduction Act 1984 (c. 37)*

- 42 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction of child by parent, etc.) is amended as follows.
- (2) In subsection (2), after paragraph (c) there is inserted—
- “(ca) he is a special guardian of the child; or”.

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- (3) In subsection (3)(a), after sub-paragraph (iii) there is inserted—  
 “(iiiia) any special guardian of the child;”.
- (4) In subsection (4), for paragraphs (a) and (b) there is substituted—  
 “(a) he is a person in whose favour there is a residence order in force with respect to the child, and he takes or sends the child out of the United Kingdom for a period of less than one month; or  
 (b) he is a special guardian of the child and he takes or sends the child out of the United Kingdom for a period of less than three months.”
- (5) In subsection (5A), the “or” at the end of sub-paragraph (i) of paragraph (a) is omitted, and after that sub-paragraph there is inserted—  
 “(ia) who is a special guardian of the child; or”.
- (6) In subsection (7)(a), after “ “guardian of a child,”” there is inserted ““special guardian,””.
- 43 (1) The Schedule to that Act (modifications of section 1 for children in certain cases) is amended as follows.
- (2) In paragraph 3 (adoption and custodianship), for sub-paragraphs (1) and (2) there is substituted—  
 “(1) This paragraph applies where—  
 (a) a child is placed for adoption by an adoption agency under section 19 of the Adoption and Children Act 2002, or an adoption agency is authorised to place the child for adoption under that section; or  
 (b) a placement order is in force in respect of the child; or  
 (c) an application for such an order has been made in respect of the child and has not been disposed of; or  
 (d) an application for an adoption order has been made in respect of the child and has not been disposed of; or  
 (e) an order under section 84 of the Adoption and Children Act 2002 (giving parental responsibility prior to adoption abroad) has been made in respect of the child, or an application for such an order in respect of him has been made and has not been disposed of.
- (2) Where this paragraph applies, section 1 of this Act shall have effect as if—  
 (a) the reference in subsection (1) to the appropriate consent were—  
 (i) in a case within sub-paragraph (1)(a) above, a reference to the consent of each person who has parental responsibility for the child or to the leave of the High Court;  
 (ii) in a case within sub-paragraph (1)(b) above, a reference to the leave of the court which made the placement order;  
 (iii) in a case within sub-paragraph (1)(c) or (d) above, a reference to the leave of the court to which the application was made;  
 (iv) in a case within sub-paragraph (1)(e) above, a reference to the leave of the court which made the order or, as the case may be, to which the application was made;

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- (b) subsection (3) were omitted;
  - (c) in subsection (4), in paragraph (a), for the words from “in whose favour” to the first mention of “child” there were substituted “who provides the child’s home in a case falling within sub-paragraph (1)(a) or (b) of paragraph 3 of the Schedule to this Act”; and
  - (d) subsections (4A), (5), (5A) and (6) were omitted.”
- (3) In paragraph 5 (interpretation), in sub-paragraph (a), for the words from “and “adoption order”” to the end there is substituted “, “adoption order”, “placed for adoption by an adoption agency” and “placement order” have the same meaning as in the Adoption and Children Act 2002; and”.

*The Matrimonial and Family Proceedings Act 1984 (c. 42)*

- 44 In section 40 of the Matrimonial and Family Proceedings Act 1984 (family proceedings rules), in subsection (2), in paragraph (a), after “the Adoption Act 1968” the “or” is omitted and after “the Adoption Act 1976” there is inserted “or section 141(1) of the Adoption and Children Act 2002”.

*The Child Abduction and Custody Act 1985 (c. 60)*

- 45 In Schedule 3 to the Child Abduction and Custody Act 1985 (custody orders), in paragraph 1, the “and” at the end of paragraph (b) is omitted and after that paragraph there is inserted—
- “(bb) a special guardianship order (within the meaning of the Act of 1989); and”;
- and paragraph (c)(v) is omitted.

*The Family Law Act 1986 (c. 55)*

- 46 The Family Law Act 1986 is amended as follows.
- 47 In section 1 (orders to which Part 1 applies), in subsection (1), after paragraph (a) there is inserted—
- “(aa) a special guardianship order made by a court in England and Wales under the Children Act 1989;
  - (ab) an order made under section 26 of the Adoption and Children Act 2002 (contact), other than an order varying or revoking such an order”.
- 48 In section 2 (jurisdiction: general), after subsection (2) there is inserted—
- “(2A) A court in England and Wales shall not have jurisdiction to make a special guardianship order under the Children Act 1989 unless the condition in section 3 of this Act is satisfied.
  - (2B) A court in England and Wales shall not have jurisdiction to make an order under section 26 of the Adoption and Children Act 2002 unless the condition in section 3 of this Act is satisfied.”
- 49 In section 57 (declarations as to adoptions effected overseas)—
- (a) for subsection (1)(a) there is substituted—

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- “(a) a Convention adoption, or an overseas adoption, within the meaning of the Adoption and Children Act 2002, or”,
- (b) in subsection (2)(a), after “1976” there is inserted “or section 67 of the Adoption and Children Act 2002”.

*The Family Law Reform Act 1987 (c. 42)*

- 50 The Family Law Reform Act 1987 is amended as follows.
- 51 In section 1 (general principle), for paragraph (c) of subsection (3) there is substituted—
- “(c) is an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002”.
- 52 In section 19 (dispositions of property), in subsection (5), after “1976” there is inserted “or section 69 of the Adoption and Children Act 2002”.

*The Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))*

- 53 In Article 2(2) (interpretation), in the definition of “prescribed”, for “Articles 54” there is substituted “Articles 53(3B) and (3D), 54”.

*The Children Act 1989 (c. 41)*

- 54 The Children Act 1989 is amended as follows.
- 55 In section 8 (residence, contact and other orders with respect to children), in subsection (4), for paragraph (d) there is substituted—
- “(d) the Adoption and Children Act 2002;”.
- 56 In section 10 (power of court to make section 8 orders)—
- (a) in subsection (4)(a), for “or guardian” there is substituted “, guardian or special guardian”,
  - (b) after subsection (4)(a) there is inserted—
    - “(aa) any person who by virtue of section 4A has parental responsibility for the child;”.
  - (c) after subsection (5) there is inserted—
    - “(5A) A local authority foster parent is entitled to apply for a residence order with respect to a child if the child has lived with him for a period of at least one year immediately preceding the application.”.
  - (d) after subsection (7) there is inserted—
    - “(7A) If a special guardianship order is in force with respect to a child, an application for a residence order may only be made with respect to him, if apart from this subsection the leave of the court is not required, with such leave.”.
- 57 In section 12 (residence orders and parental responsibility), in subsection (3)—
- (a) paragraph (a) is omitted,
  - (b) in paragraph (b), for “section 55 of the Act of 1976” there is substituted “section 84 of the Adoption and Children Act 2002”.
- 58 In section 16 (family assistance orders), in subsection (2)(a), for “or guardian” there is substituted “, guardian or special guardian”.



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- 59 In section 20 (provision of accommodation for children: general), in subsection (9), the “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted—
- “(aa) who is a special guardian of the child; or”.
- 60 In section 24 (persons qualifying for advice and assistance)—
- (a) for subsection (1) there is substituted—
- “(1) In this Part “a person qualifying for advice and assistance” means a person to whom subsection (1A) or (1B) applies.
- (1A) This subsection applies to a person—
- (a) who has reached the age of sixteen but not the age of twenty-one;
- (b) with respect to whom a special guardianship order is in force (or, if he has reached the age of eighteen, was in force when he reached that age); and
- (c) who was, immediately before the making of that order, looked after by a local authority.
- (1B) This subsection applies to a person to whom subsection (1A) does not apply, and who—
- (a) is under twenty-one; and
- (b) at any time after reaching the age of sixteen but while still a child was, but is no longer, looked after, accommodated or fostered.”,
- (b) in subsection (2), for “subsection (1)(b)” there is substituted “subsection (1B)(b)”,
- (c) in subsection (5), before paragraph (a) there is inserted—
- “(za) in the case of a person to whom subsection (1A) applies, a local authority determined in accordance with regulations made by the Secretary of State;”.
- 61 In section 24A (advice and assistance for qualifying persons)—
- (a) in subsection (2)(b), after “a person” there is inserted “to whom section 24(1A) applies, or to whom section 24(1B) applies and”,
- (b) in subsection (3)(a), after “if” there is inserted “he is a person to whom section 24(1A) applies, or he is a person to whom section 24(1B) applies and”.
- 62 In section 24B (assistance with employment, education and training), in each of subsections (1) and (3)(b), after “of” there is inserted “section 24(1A) or”.
- 63 In section 33 (effect of care order)—
- (a) in subsection (3)(b), for “a parent or guardian of the child” there is substituted “—
- (i) a parent, guardian or special guardian of the child;  
or
- (ii) a person who by virtue of section 4A has parental responsibility for the child,”,
- (b) in subsection (5), for “a parent or guardian of the child who has care of him” there is substituted “a person mentioned in that provision who has care of the child”,

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- (c) in subsection (6)(b)—
    - (i) sub-paragraph (i) is omitted,
    - (ii) in sub-paragraph (ii), for “section 55 of the Act of 1976” there is substituted “section 84 of the Adoption and Children Act 2002”,
  - (d) in subsection (9), for “a parent or guardian of the child” there is substituted “a person mentioned in that provision”.
- 64 In section 34 (parental contact etc. with children in care)—
- (a) in subsection (1)(b), after “guardian” there is inserted “or special guardian”, and
  - (b) after subsection (1)(b) there is inserted—
    - “(ba) any person who by virtue of section 4A has parental responsibility for him;”.
- 65 In section 80 (inspection of children’s homes by persons authorised by Secretary of State), in subsection (1), paragraphs (e) and (f) are omitted.
- 66 In section 81 (inquiries), in subsection (1), paragraph (b) is omitted.
- 67 In section 88 (amendments of adoption legislation), subsection (1) is omitted.
- 68 In section 91 (effect and duration of orders, etc.)—
- (a) after subsection (5) there is inserted—
    - “(5A) The making of a special guardianship order with respect to a child who is the subject of—
      - (a) a care order; or
      - (b) an order under section 34, discharges that order.”,
    - (b) in subsection (7), after “4(1)” there is inserted “4A(1)”,
    - (c) in subsection (8)(a), after “4” there is inserted “or 4A”.
- 69 In section 102 (power of constable to assist in exercise of certain powers to search for children or inspect premises), in subsection (6), paragraph (c) is omitted.
- 70 In section 105 (interpretation), in subsection (1)—
- (a) in the definition of “adoption agency”, for “section 1 of the Adoption Act 1976” there is substituted “section 2 of the Adoption and Children Act 2002”,
  - (b) at the appropriate place there is inserted—
    - ““section 31A plan” has the meaning given by section 31A(6);”,
  - (c) in the definition of “parental responsibility agreement”, for “section 4(1)” there is substituted “sections 4(1) and 4A(2)”,
  - (d) the definition of “protected child” is omitted,
  - (e) after the definition of “special educational needs” there is inserted—
    - ““special guardian” and “special guardianship order” have the meaning given by section 14A;”.
- 71 In Schedule 1 (financial provision for children)—
- (a) in paragraph 1 (orders for financial relief against parents)—
    - (i) in sub-paragraph (1), for “or guardian” there is substituted “, guardian or special guardian”, and

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- (ii) in sub-paragraph (6), after “order” there is inserted “or a special guardianship order”,
  - (b) in paragraph 6 (variation etc of orders for periodical payments), in sub-paragraph (8), after “guardian” there is inserted “or special guardian”,
  - (c) in paragraph 8 (financial relief under other enactments), in sub-paragraph (1) and in sub-paragraph (2)(b), after “residence order” there is inserted “or a special guardianship order”,
  - (d) in paragraph 14 (financial provision for child resident in country outside England and Wales), in sub-paragraph (1)(b), after “guardian” there is inserted “or special guardian”.
- 72 In Schedule 2, in paragraph 19 (arrangements by local authorities to assist children to live abroad)—
- (a) in sub-paragraph (4) (arrangements to assist children to live abroad), after “guardian,” there is inserted “special guardian,”,
  - (b) in sub-paragraph (6), for the words from the beginning to “British subject” there is substituted “Section 85 of the Adoption and Children Act 2002 (which imposes restrictions on taking children out of the United Kingdom)”,
  - (c) after sub-paragraph (8) there is inserted—
    - “(9) This paragraph does not apply to a local authority placing a child for adoption with prospective adopters.”
- 73 In Schedule 8 (privately fostered children), in paragraph 5, for sub-paragraphs (a) and (b) there is substituted “he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of—
- (a) section 2 of the Adoption and Children Act 2002;
  - (b) section 1 of the Adoption (Scotland) Act 1978; or
  - (c) Article 3 of the Adoption (Northern Ireland) Order 1987”.
- 74 Part 1 of Schedule 10 is omitted.
- 75 In Schedule 11 (jurisdiction), in paragraphs 1 and 2, for the words “the Adoption Act 1976”, wherever they occur, there is substituted “the Adoption and Children Act 2002”.

*The Human Fertilisation and Embryology Act 1990 (c. 37)*

- 76 The Human Fertilisation and Embryology Act 1990 is amended as follows.
- 77 In section 27 (meaning of mother), in subsection (2), for “child of any person other than the adopter or adopters” there is substituted “woman’s child”.
- 78 In section 28 (meaning of father), in subsection (5)(c), for “child of any person other than the adopter or adopters” there is substituted “man’s child”.
- 79 In section 30 (parental orders in favour of gamete donors), in subsection (10) for “Adoption Act 1976” there is substituted “Adoption and Children Act 2002”.

*The Courts and Legal Services Act 1990 (c. 41)*

- 80 In section 58A of the Courts and Legal Services Act 1990 (conditional fee agreements: supplementary), in subsection (2), for paragraph (b) there is substituted—

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“(b) the Adoption and Children Act 2002;”.

*The Child Support Act 1991 (c. 48)*

81 In section 26 of the Child Support Act 1991 (disputes about parentage), in subsection (3), after “1976” there is inserted “or Chapter 4 of Part 1 of the Adoption and Children Act 2002”.

*The Children (Scotland) Act 1995 (c. 36)*

82 Section 86 of the Children (Scotland) Act 1995 (parental responsibilities order: general) is amended as follows.

83 In subsection (3), in paragraph (a), for “section 18 (freeing for adoption) or 55 (adoption abroad) of the Adoption Act 1976” there is substituted “section 19 (placing children with parental consent) or 84 (giving parental responsibility prior to adoption abroad) of the Adoption and Children Act 2002”.

84 In subsection (6), in paragraph (b), for the words from the beginning to “Adoption Act 1976” there is substituted—

- “(b) he becomes the subject of an adoption order within the meaning of the Adoption (Scotland) Act 1978;
- (b) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, is authorised to place him for adoption under section 19 of that Act (placing children with parental consent) or he becomes the subject of an order under section 21 of that Act (placement orders) or under section 84 of that Act (giving parental responsibility prior to adoption abroad)”.

*The Family Law Act 1996 (c. 27)*

85 The Family Law Act 1996 is amended as follows.

86 In section 62 (meaning of “relevant child” etc.)—

- (a) in subsection (2), in paragraph (b), after “the Adoption Act 1976” there is inserted “, the Adoption and Children Act 2002”,
- (b) in subsection (5), for the words from “has been freed” to “1976” there is substituted “falls within subsection (7)”.

87 At the end of that section there is inserted—

“(7) A child falls within this subsection if—

- (a) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, has power to place him for adoption under section 19 of that Act (placing children with parental consent) or he has become the subject of an order under section 21 of that Act (placement orders), or
- (b) he is freed for adoption by virtue of an order made—
  - (i) in England and Wales, under section 18 of the Adoption Act 1976,
  - (ii) in Scotland, under section 18 of the Adoption (Scotland) Act 1978, or

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(iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987.”

88 In section 63 (interpretation of Part 4)—

(a) in subsection (1), for the definition of “adoption order”, there is substituted—

““adoption order” means an adoption order within the meaning of section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002;”,

(b) in subsection (2), after paragraph (h) there is inserted—

“(i) the Adoption and Children Act 2002.”

*The Housing Act 1996 (c. 52)*

89 Section 178 of the Housing Act 1996 (meaning of associated person) is amended as follows.

90 In subsection (2), for the words from “has been freed” to “1976” there is substituted “falls within subsection (2A)”.

91 After that subsection there is inserted—

“(2A) A child falls within this subsection if—

(a) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, is authorised to place him for adoption under section 19 of that Act (placing children with parental consent) or he has become the subject of an order under section 21 of that Act (placement orders), or

(b) he is freed for adoption by virtue of an order made—

(i) in England and Wales, under section 18 of the Adoption Act 1976,

(ii) in Scotland, under section 18 of the Adoption (Scotland) Act 1978, or

(iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987.”

92 In subsection (3), for the definition of “adoption order”, there is substituted—

““adoption order” means an adoption order within the meaning of section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002;”.

*The Police Act 1997 (c. 50)*

93 In section 115 of the Police Act 1997 (enhanced criminal records), in subsection (5) (h), for “section 11 of the Adoption Act 1976” there is substituted “section 2 of the Adoption and Children Act 2002”.

*The Protection of Children Act 1999 (c. 14)*

94 In section 2B of the Protection of Children Act 1999 (individuals named in the findings of certain inquiries), in subsection (7), after paragraph (a) there is inserted—

“(vi) section 17 of the Adoption and Children Act 2002;”.

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*The Adoption (Intercountry Aspects) Act 1999 (c. 18)*

- 95 The following provisions of the Adoption (Intercountry Aspects) Act 1999 cease to have effect in relation to England and Wales: sections 3, 6, 8, 9 and 11 to 13.
- 96 Section 2 of that Act (accredited bodies) is amended as follows.
- 97 In subsection (2A)—
- (a) for the words from the beginning to “2000” there is substituted “A registered adoption society”,
  - (b) for “agency” there is substituted “society”.
- 98 For subsection (5) there is substituted—
- “(5) In this section, “registered adoption society” has the same meaning as in section 2 of the Adoption and Children Act 2002 (basic definitions); and expressions used in this section in its application to England and Wales which are also used in that Act have the same meanings as in that Act.”
- 99 In subsection (6)—
- (a) the words “in its application to Scotland” are omitted,
  - (b) after “expressions” there is inserted “used in this section in its application to Scotland”.
- 100 Section 14 (restriction on bringing children into the United Kingdom for adoption) is omitted.
- 101 In section 16(1) (devolution: Wales), the words “, or section 17 or 56A of the 1976 Act,” are omitted.

*The Access to Justice Act 1999 (c. 22)*

- 102 In Schedule 2 to the Access to Justice Act 1999 (Community Legal Service: excluded services), in paragraph 2(3)(c)—
- (a) for “section 27 or 28 of the Adoption Act 1976” there is substituted “section 36 of the Adoption and Children Act 2002”,
  - (b) for “an order under Part II or section 29 or 55” there is substituted “a placement order or adoption order (within the meaning of the Adoption and Children Act 2002) or an order under section 41 or 84”.

*The Care Standards Act 2000 (c. 14)*

- 103 The Care Standards Act 2000 is amended as follows.
- 104 In section 4 (basic definitions), in subsection (7), for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”.
- 105 At the end of section 5 (registration authorities) there is inserted—
- “(2) This section is subject to section 36A.”
- 106 In section 11 (requirement to register), in subsection (3), for “reference in subsection (1) to an agency does” there is substituted “references in subsections (1) and (2) to an agency do”.
- 107 In section 14 (2) (offences conviction of which may result in cancellation of registration), for paragraph (d) there is substituted—

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- (d) an offence under regulations under section 1(3) of the Adoption (Intercountry Aspects) Act 1999,
  - (e) an offence under the Adoption and Children Act 2002 or regulations made under it”.
- 108 In section 16(2) (power to make regulations providing that no application for registration may be made in respect of certain agencies which are unincorporated bodies), “or a voluntary adoption agency” is omitted.
- 109 In section 22(10) (disapplication of power to make regulations in the case of voluntary adoption agencies), at the end there is inserted “or adoption support agencies”.
- 110 In section 23 (standards), at the end of subsection (4)(d) there is inserted “or proceedings against a voluntary adoption agency for an offence under section 9(4) of the Adoption Act 1976 or section 9 of the Adoption and Children Act 2002”.
- 111 In section 31 (inspections by authorised persons), in subsection (3)(b), for “section 9(2) of the Adoption Act 1976” there is substituted “section 9 of the Adoption and Children Act 2002”.
- 112 In section 43 (introductory), in subsection (3)(a)—
  - (a) for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”,
  - (b) after “children” there is inserted “or the provision of adoption support services (as defined in section 2(6) of the Adoption and Children Act 2002)”.
- 113 In section 46 (inspections: supplementary), in subsection (7)(c), for “section 9(3) of the Adoption Act 1976” there is substituted “section 9 of the Adoption and Children Act 2002”.
- 114 In section 48 (regulation of fostering functions), at the end of subsection (1) there is inserted—
  - (f) as to the fees or expenses which may be paid to persons assisting local authorities in making decisions in the exercise of such functions”.
- 115 In section 55(2)(b) (definition of “social care worker”), for “or a voluntary adoption agency” there is substituted “, a voluntary adoption agency or an adoption support agency”.
- 116 In section 121 (general interpretation)—
  - (a) in subsection (1), in the definition of “voluntary organisation”, for “the Adoption Act 1976” there is substituted “the Adoption and Children Act 2002”,
  - (b) in subsection (13), in the appropriate place in the table there is inserted—

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“Adoption support agency	Section 4”.
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- 117 In Schedule 4 (minor and consequential amendments), paragraph 27(b) is omitted.

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*The Criminal Justice and Court Services Act 2000 (c. 43)*

- 118 In section 12(5) of the Criminal Justice and Court Services Act 2000 (meaning of “family proceedings” in relation to CAFCASS), paragraph (b) (supervision orders under the 1989 Act) and the preceding “and” are omitted.

SCHEDULE 4

Section 139

TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

*General rules for continuity*

- 1 (1) Any reference (express or implied) in Part 1 or any other enactment, instrument or document to—
- (a) any provision of Part 1, or
  - (b) things done or falling to be done under or for the purposes of any provision of Part 1,
- must, so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision repealed by this Act had effect, a reference to that corresponding provision or (as the case may be) to things done or falling to be done under or for the purposes of that corresponding provision.
- (2) Any reference (express or implied) in any enactment, instrument or document to—
- (a) a provision repealed by this Act, or
  - (b) things done or falling to be done under or for the purposes of such a provision,
- must, so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision of Part 1 has effect, a reference to that corresponding provision or (as the case may be) to things done or falling to be done under or for the purposes of that corresponding provision.

*General rule for old savings*

- 2 (1) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (2) The repeal by this Act of a saving made on the previous repeal of an enactment does not affect the operation of the saving in so far as it is not specifically reproduced in this Act but remains capable of having effect.

*Adoption support services*

- 3 (1) The facilities to be provided by local authorities as part of the service maintained under section 1(1) of the Adoption Act 1976 (c. 36) include such arrangements as the authorities may be required by regulations to make for the provision of adoption support services to prescribed persons.
- (2) Regulations under sub-paragraph (1) may require a local authority—



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- (a) at the request of a prescribed person, to carry out an assessment of his needs for adoption support services,
  - (b) if, as a result of the assessment, the authority decide that he has such needs, to decide whether to provide any such services to him,
  - (c) if the authority decide to provide any such services to a person, and the circumstances fall within a description prescribed by the regulations, to prepare a plan in accordance with which the services are to be provided to him and keep the plan under review.
- (3) Subsections (6) and (7) (except paragraph (a)) of section 4 of this Act apply to regulations under sub-paragraph (1) as they apply to regulations made by virtue of that section.
- (4) Section 57(1) of the Adoption Act 1976 (prohibited payments) does not apply to any payment made in accordance with regulations under sub-paragraph (1).

#### *Regulation of adoption agencies*

- 4 (1) In section 9 of the Adoption Act 1976—
- (a) for “Secretary of State” in subsections (2) and (3) there is substituted “appropriate Minister”, and
  - (b) at the end of that section there is inserted—
    - “(5) In this section and section 9A, “the appropriate Minister” means—
      - (a) in relation to England, the Secretary of State,
      - (b) in relation to Wales, the National Assembly for Wales,and in relation to England and Wales, means the Secretary of State and the Assembly acting jointly.”
- (2) Until the commencement of the repeal by this Act of section 9(2) of the Adoption Act 1976, section 36A of the Care Standards Act 2000 (c. 14) (inserted by section 16 of this Act) is to have effect as if, after “2002”, there were inserted “or under section 9(2) of the Adoption Act 1976”.

#### *Independent review mechanism*

- 5 After section 9 of the Adoption Act 1976 (c. 36) there is inserted—

##### **“9A 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 a panel constituted by the appropriate Minister for a review of that determination.
- (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—
  - (a) the duties and powers of a panel (including the power to recover the costs of a review from the adoption agency by which the determination reviewed was made),
  - (b) the administration and procedures of a panel,

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- (c) 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),
  - (d) the payment of expenses of members of a panel,
  - (e) the duties of adoption agencies in connection with reviews conducted under the regulations,
  - (f) the monitoring of any such reviews.
- (4) The appropriate Minister may make an arrangement with an organisation under which functions in relation to the panel 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.
- (7) Where the appropriate Minister is the National Assembly for Wales, subsections (4) and (6) also apply as if references to an organisation included references to the Secretary of State.
- (8) In this section, “organisation” includes a public body and a private or voluntary organisation.”

#### *Pending applications for freeing orders*

- 6 Nothing in this Act affects any application for an order under section 18 of the Adoption Act 1976 (freeing for adoption) where—
- (a) the application has been made and has not been disposed of immediately before the repeal of that section, and
  - (b) the child in relation to whom the application is made has his home immediately before that repeal with a person with whom he has been placed for adoption by an adoption agency.

#### *Freeing orders*

- 7 (1) Nothing in this Act affects any order made under section 18 of the Adoption Act 1976 (c. 36) and—
- (a) sections 19 to 21 of that Act are to continue to have effect in relation to such an order, and
  - (b) Part 1 of Schedule 6 to the Magistrates' Courts Act 1980 (c. 43) is to continue to have effect for the purposes of an application under section 21 of the Adoption Act 1976 in relation to such an order.
- (2) Section 20 of that Act, as it has effect by virtue of this paragraph, is to apply as if, in subsection (3)(c) after “1989” there were inserted—
- “(ia) any care order, within the meaning of that Act”.
- (3) Where a child is free for adoption by virtue of an order made under section 18 of that Act, the third condition in section 47(6) is to be treated as satisfied.

### *Pending applications for adoption orders*

- 8 Nothing in this Act affects any application for an adoption order under section 12 of the Adoption Act 1976 where—
- (a) the application has been made and has not been disposed of immediately before the repeal of that section, and
  - (b) the child in relation to whom the application is made has his home immediately before that repeal with a person with whom he has been placed for adoption by an adoption agency.

### *Notification of adoption applications*

- 9 Where a notice given in respect of a child by the prospective adopters under section 22(1) of the Adoption Act 1976 is treated by virtue of paragraph 1(1) as having been given for the purposes of section 44(2) in respect of an application to adopt the child, section 42(3) has effect in relation to their application for an adoption order as if for “six months” there were substituted “twelve months”.

### *Adoptions with a foreign element*

- 10 In section 13 of the Adoption Act 1976 (child to live with adopters before order is made)—
- (a) in subsection (1)(a), at the beginning there is inserted “(subject to subsection (1A))”,
  - (b) after subsection (1) there is inserted—
    - “(1A) Where an adoption is proposed to be effected by a Convention adoption order, the order shall not be made unless at all times during the preceding six months the child had his home with the applicants or one of them.”,
  - (c) in subsection (2), after “subsection (1)” there is inserted “or (1A)”,
  - (d) subsection (4) is omitted.
- 11 In section 56 of the Adoption Act 1976 (restriction on removal of children for adoption outside Great Britain)—
- (a) in subsection (1), “not being a parent or guardian or relative of the child” is omitted,
  - (b) at the end of that section there is inserted—
    - “(4) Regulations may provide for subsection (1) to apply with modifications, or not to apply, if—
      - (a) the prospective adopters are parents, relatives or guardians of the child in question (or one of them is), or
      - (b) the prospective adopter is a step-parent of the child, and any prescribed conditions are met.
    - (5) On the occasion of the first exercise of the power to make regulations under subsection (4)—
      - (a) the regulations shall not be made unless a draft of the regulations has been approved by a resolution of each House of Parliament, and
      - (b) accordingly section 67(2) does not apply to the statutory instrument containing the regulations.

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- (6) In this section, “prescribed” means prescribed by regulations and “regulations” means regulations made by the Secretary of State, after consultation with the National Assembly for Wales.”

12 For section 56A of the Adoption Act 1976 (c. 36) there is substituted—

**“56A Restriction on bringing children into the United Kingdom**

- (1) This section applies where a person who is habitually resident in the British Islands (the “British resident”)—

- (a) brings, or causes another to bring, a child who is habitually resident outside the British Islands into the United Kingdom for the purpose of adoption by the British resident, or
- (b) at any time brings, or causes another to bring, into the United Kingdom a child adopted by the British resident under an external adoption effected within the period of six months ending with that time.

The references to adoption, or to a child adopted, by the British resident include a reference to adoption, or to a child adopted, by the British resident and another person.

- (2) But this section does not apply if the child is intended to be adopted under a Convention adoption order.
- (3) An external adoption means an adoption, other than a Convention adoption, of a child effected under the law of any country or territory outside the British Islands, whether or not the adoption is—
  - (a) an adoption within the meaning of Part IV of this Act, or
  - (b) a full adoption (within the meaning of section 39(3A)).
- (4) Regulations may require a person intending to bring, or to cause another to bring, a child into the United Kingdom in circumstances where this section applies—
  - (a) to apply to an adoption agency (including an adoption agency within the meaning of section 1 of the Adoption (Scotland) Act 1978 or Article 3 of the Adoption (Northern Ireland) Order 1987) in the prescribed manner for an assessment of his suitability to adopt the child, and
  - (b) to give the agency any information it may require for the purpose of the assessment.
- (5) Regulations may require prescribed conditions to be met in respect of a child brought into the United Kingdom in circumstances where this section applies.
- (6) In relation to a child brought into the United Kingdom for adoption in circumstances where this section applies, regulations may provide for any provision of Part II to apply with modifications or not to apply.
- (7) If a person brings, or causes another to bring, a child into the United Kingdom at any time in circumstances where this section applies, he is guilty of an offence if—

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- (a) he has not complied with any requirement imposed by virtue of subsection (4), or
    - (b) any condition required to be met by virtue of subsection (5) is not met,  
before that time, or before any later time which may be prescribed.
  - (8) A person guilty of an offence under this section is liable—
    - (a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both,
    - (b) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or a fine, or both.
  - (9) Regulations may provide for the preceding provisions of this section not to apply if—
    - (a) the adopters or (as the case may be) prospective adopters are natural parents, natural relatives or guardians of the child in question (or one of them is), or
    - (b) the British resident in question is a step-parent of the child,  
and any prescribed conditions are met.
  - (10) On the occasion of the first exercise of the power to make regulations under subsection (9)—
    - (a) the regulations shall not be made unless a draft of the regulations has been approved by a resolution of each House of Parliament, and
    - (b) accordingly section 67(2) does not apply to the statutory instrument containing the regulations.
  - (11) In this section, “prescribed” means prescribed by regulations and “regulations” means regulations made by the Secretary of State, after consultation with the National Assembly for Wales.”
- 13 In section 72 of the Adoption Act 1976 (c. 36) (interpretation), subsection (3B) is omitted.

### *Advertising*

- 14 In section 58 of the Adoption Act 1976 (c. 36) (restrictions on advertisements)—
  - (a) after subsection (1) there is inserted—
    - “(1A) Publishing an advertisement includes doing so by electronic means (for example, by means of the internet).”
  - (b) in subsection (2), for the words following “conviction” there is substituted “to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both”.
- 15 In section 52 of the Adoption (Scotland) Act 1978 (c. 28) (restriction on advertisements)—
  - (a) after subsection (1) there is inserted—
    - “(1A) Publishing an advertisement includes doing so by electronic means (for example, by means of the internet).”

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- (b) in subsection (2), for the words following “conviction” there is substituted “to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both”.
- 16 (1) The Secretary of State may make regulations providing for the references to an adoption agency in—
- (a) section 58(1)(c) of the Adoption Act 1976, and
  - (b) section 52(1)(c) of the Adoption (Scotland) Act 1978,
- to include a prescribed person outside the United Kingdom exercising functions corresponding to those of an adoption agency, if the functions are being exercised in prescribed circumstances.
- “Prescribed” means prescribed by the regulations.
- (2) Before exercising the power conferred by sub-paragraph (1) in relation to the Adoption (Scotland) Act 1978, the Secretary of State must consult the Scottish Ministers.

*Status*

- 17 (1) Section 67—
- (a) does not apply to a pre-1976 instrument or enactment in so far as it contains a disposition of property, and
  - (b) does not apply to any public general Act in its application to any disposition of property in a pre-1976 instrument or enactment.
- (2) Section 73 applies in relation to this paragraph as if this paragraph were contained in Chapter 4 of Part 1; and an instrument or enactment is a pre-1976 instrument or enactment for the purposes of this Schedule if it was passed or made at any time before 1st January 1976.
- 18 Section 69 does not apply to a pre-1976 instrument.
- 19 In section 70(1), the reference to Part 3 of the Family Law Reform Act 1987 (c. 42) includes Part 2 of the Family Law Reform Act 1969 (c. 46).

*Registration of adoptions*

- 20 (1) The power of the court under paragraph 4(1) of Schedule 1 to amend an order on the application of the adopter or adopted person includes, in relation to an order made before 1st April 1959, power to make any amendment of the particulars contained in the order which appears to be required to bring the order into the form in which it would have been made if paragraph 1 of that Schedule had applied to the order.
- (2) In relation to an adoption order made before the commencement of the Adoption Act 1976 (c. 36), the reference in paragraph 4(3) of that Schedule to paragraph 1(2) or (3) is to be read—
- (a) in the case of an order under the Adoption of Children Act 1926 (c. 29), as a reference to section 12(3) and (4) of the Adoption of Children Act 1949 (c. 98),
  - (b) in the case of an order under the Adoption Act 1950 (c. 26), as a reference to section 18(3) and (4) of that Act,
  - (c) in the case of an order under the Adoption Act 1958 (c. 5), as a reference to section 21(4) and (5) of that Act.

*The Child Abduction Act 1984 (c. 37)*

- 21 Paragraph 43 of Schedule 3 does not affect the Schedule to the Child Abduction Act 1984 in its application to a child who is the subject of—
- (a) an order under section 18 of the Adoption Act 1976 freeing the child for adoption,
  - (b) a pending application for such an order, or
  - (c) a pending application for an order under section 12 of that Act.

*The Courts and Legal Services Act 1990 (c. 41)*

- 22 Paragraph 80 of Schedule 3 does not affect section 58A(2)(b) of the Courts and Legal Services Act 1990 in its application to proceedings under the Adoption Act 1976 (c. 36).

*The Children (Scotland) Act 1995 (c. 36)*

- 23 Paragraph 84 of Schedule 3 does not affect section 86(6) of the Children (Scotland) Act 1995 in its application to a child who becomes the subject of an order under section 18 or 55 of the Adoption Act 1976 by virtue of an application made before the repeal of that section.

SCHEDULE 5

Section 139

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Births and Deaths Registration Act 1953 (c. 20).	In section 10(3), the words following “the Family Law Reform Act 1987”.
Sexual Offences Act 1956 (c. 69).	In section 28(4), the “or” at the end of paragraph (a).
Local Authority Social Services Act 1970 (c. 42).	In Schedule 1, the entry relating to the Adoption Act 1976.
Adoption Act 1976 (c. 36).	The whole Act, except Part 4 and paragraph 6 of Schedule 2.
Criminal Law Act 1977 (c. 45).	In Schedule 12, the entries relating to the Adoption Act 1976.
National Health Service Act 1977 (c. 49).	In section 124A(3), the “or” at the end of paragraph (a).
Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).	Sections 73(2), 74(2) and 74(4).
Adoption (Scotland) Act 1978 (c. 28).	In section 50, the words “not being a parent or guardian or relative of the child”. Section 52.

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 53(2), the words “England and Wales or”.
	In section 65(1), in the definition of “order freeing a child for adoption”, paragraph (a) and the word “and” immediately following that paragraph.
Magistrates' Courts Act 1980 (c. 43).	In section 71(1) the words “(other than proceedings under the Adoption Act 1976)”.
	In section 71(2) the words following “(a) and (b)”.
	In Schedule 7, paragraphs 141 and 142.
British Nationality Act 1981 (c. 61).	In section 1(8), the words following “section 50”.
Mental Health Act 1983 (c. 20).	In Schedule 4, paragraph 45.
Health and Social Services and Social Security Adjudications Act 1983 (c. 41).	In Schedule 2, paragraphs 29 to 33, 35 and 36.
	In Schedule 9, paragraph 19.
County Courts Act 1984 (c. 28).	In Schedule 2, paragraph 58.
Child Abduction Act 1984 (c. 37).	In section 1(5A)(a), the “or” at the end of sub-paragraph (i).
Matrimonial and Family Proceedings Act 1984 (c. 42).	In section 40(2)(a), after “the Adoption Act 1968”, the word “or”.
	In Schedule 1, paragraph 20.
Child Abduction and Custody Act 1985 (c. 60).	In Schedule 3, in paragraph 1, the “and” at the end of paragraph (b).
	In Schedule 3, in paragraph 1(c), paragraph (v).
Family Law Reform Act 1987 (c. 42).	In Schedule 3, paragraphs 2 to 5.
Children Act 1989 (c. 41).	Section 9(4).
	Section 12(3)(a).
	In section 20(9), the “or” at the end of paragraph (a).
	In section 26(2)(e) and (f), the words “to consider”.
	Section 33(6)(b)(i).
	Section 80(1)(e) and (f).
	Section 81(1)(b).
	Section 88(1).
	Section 102(6)(c).



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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 105(1), the definition of “protected child”.
	In Schedule 10, Part 1.
National Health Service and Community Care Act 1990 (c. 19).	In Schedule 9, paragraph 17.
Human Fertilisation and Embryology Act 1990 (c. 37).	In Schedule 4, paragraph 4.
Courts and Legal Services Act 1990 (c. 41).	In Schedule 16, paragraph 7.
Local Government (Wales) Act 1994 (c. 19).	In Schedule 10, paragraph 9.
Health Authorities Act 1995 (c. 17).	In Schedule 1, paragraph 101.
Adoption (Intercountry Aspects) Act 1999 (c. 18).	In section 2(6), the words “in its application to Scotland”.
	Section 7(3).
	Section 14.
	In section 16(1), the words “, or section 17 or 56A of the 1976 Act,”.
Access to Justice Act 1999 (c. 22).	In Schedule 2, paragraph 3.
Care Standards Act 2000 (c. 14).	In Schedule 13, paragraph 88.
	In section 16(2), the words “or a voluntary adoption agency”.
	In Schedule 4, paragraphs 5 and 27(b).
Local Government Act 2000 (c. 22).	In Schedule 5, paragraph 16.
Criminal Justice and Court Services Act 2000 (c. 43).	Section 12(5)(b) and the preceding “and”.
	In Schedule 7, paragraphs 51 to 53.
This Act.	In Schedule 4, paragraphs 3 to 5 and 10 to 16.

## SCHEDULE 6

Section 147

### GLOSSARY

In this Act, the expressions listed in the left-hand column below have the meaning given by, or are to be interpreted in accordance with, the provisions of this Act or (where stated) of the 1989 Act listed in the right-hand column.

<i>Expression</i>	<i>Provision</i>
the 1989 Act	section 2(5)
Adopted Children Register	section 77

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<i>Expression</i>	<i>Provision</i>
Adoption and Children Act Register	section 125
adoption (in relation to Chapter 4 of Part 1)	section 66
adoption agency	section 2(1)
adoption agency placing a child for adoption	section 18(5)
Adoption Contact Register	section 80
adoption order	section 46(1)
Adoption Service	section 2(1)
adoption society	section 2(5)
adoption support agency	section 8
adoption support services	section 2(6)
appointed day (in relation to Chapter 4 of Part 1)	section 66(2)
appropriate Minister	section 144
Assembly	section 144
body	section 144
by virtue of	section 144
care order	section 105(1) of the 1989 Act
child	sections 49(5) and 144
child assessment order	section 43(2) of the 1989 Act
child in the care of a local authority	section 105(1) of the 1989 Act
child looked after by a local authority	section 22 of the 1989 Act
child placed for adoption by an adoption agency	section 18(5)
child to be adopted, adopted child	section 49(5)
consent (in relation to making adoption orders or placing for adoption)	section 52
the Convention	section 144
Convention adoption	section 66(1)(c)
Convention adoption order	section 144
Convention country	section 144
couple	section 144(4)
court	section 144
disposition (in relation to Chapter 4 of Part 1)	section 73
enactment	section 144
fee	section 144

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<i>Expression</i>	<i>Provision</i>
guardian	section 144
information	section 144
interim care order	section 38 of the 1989 Act
local authority	section 144
local authority foster parent	section 23(3) of the 1989 Act
Northern Irish adoption agency	section 144
Northern Irish adoption order	section 144
notice	section 144
notice of intention to adopt	section 44(2)
overseas adoption	section 87
parental responsibility	section 3 of the 1989 Act
partner, in relation to a parent of a child	section 144(7)
placement order	section 21
placing, or placed, for adoption	sections 18(5) and 19(4)
prohibited steps order	section 8(1) of the 1989 Act
records (in relation to Chapter 5 of Part 1)	section 82
registered adoption society	section 2(2)
registers of live-births (in relation to Chapter 5 of Part 1)	section 82
registration authority (in Part 1)	section 144
regulations	section 144
relative	section 144, read with section 1(8)
residence order	section 8(1) of the 1989 Act
rules	section 144
Scottish adoption agency	section 144(3)
Scottish adoption order	section 144
specific issue order	section 8(1) of the 1989 Act
subordinate legislation	section 144
supervision order	section 31(11) of the 1989 Act
unitary authority	section 144
voluntary organisation	section 2(5)

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