
STATUTORY INSTRUMENTS

2005 No. 888

The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005

PART 4

APPLICATIONS FOR DISCLOSURE OF PROTECTED INFORMATION

Manner of application

12. An application to an adoption agency for the disclosure of protected information under section 61 or 62 of the Act must be in writing and must state the reasons for the application.

Duties of agency on receipt of application

13. On receipt of an application for the disclosure of protected information under section 61 or 62 of the Act an adoption agency must take reasonable steps to confirm—

- (a) the identity of the applicant or of any person acting on his behalf; and
- (b) that any person acting on behalf of the applicant is authorised to do so.

Record of views

14. An adoption agency must ensure that any views obtained under section 61(3) or 62(3) or (4) of the Act are recorded in writing.

Independent review

15.—(1) The following determinations by the appropriate adoption agency in relation to an application under section 61 of the Act are qualifying determinations for the purposes of section 12 of the Act (independent review of determinations)—

- (a) not to proceed with an application from any person for disclosure of protected information;
- (b) to disclose information against the express views of the person the information is about;
- (c) not to disclose information about a person to the applicant where that person has expressed the view that the information should be disclosed.

(2) The adoption agency must give the relevant person written notification of the determination, which must—

- (a) state the reasons for it; and
- (b) advise the relevant person that he may apply to the Secretary of State within 40 working days, beginning with the date on which the notification was sent, for a review by an independent review panel of the qualifying determination.

- (3) If the adoption agency receives notification from the Secretary of State that the relevant person has applied for a review by an independent review panel of the qualifying determination, the agency must, within 10 working days of receipt of that notification, send to the Secretary of State—
- (a) a copy of the application for disclosure of information;
 - (b) a copy of the notification given under paragraph (2);
 - (c) the record of any views obtained by the agency under section 61(3) of the Act; and
 - (d) any additional information requested by the panel.
- (4) The adoption agency must not take any action in accordance with its original determination before—
- (a) the independent review panel has made its recommendation; or
 - (b) if the person has not applied for a review within that 40 day period, the end of that period.
- (5) The adoption agency must have regard to any recommendation of the independent review panel in deciding whether to proceed with its original determination.
- (6) In paragraph (3)—
- (a) the reference to an independent review panel is to a panel constituted for the purposes of section 12 of the Act; and
 - (b) “working day” means any day other than a Saturday or Sunday, Christmas day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(1).
- (7) In this regulation “the relevant person” is—
- (a) in the case of a qualifying determination mentioned in paragraph (1)(a) or (c), the applicant;
 - (b) in the case of a qualifying determination mentioned in paragraph (1)(b), the person the protected information is about.