



# Adoption Act 1976

## 1976 CHAPTER 36

### PART I

#### THE ADOPTION SERVICE

##### *The Adoption Service*

#### **1 Establishment of Adoption Service.**

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

[<sup>F1</sup>(3A) In this Part, references to adoption are to the adoption of children, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the British Islands.]

*Status: Point in time view as at 01/04/2002.*

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

#### Textual Amendments

- F1** S. 1(3A) inserted (30.4.2001) by 1999 c. 18, s. 9; S.I. 2001/1279, art. 2

## 2 Local authorities’ social services.

The social services referred to in section 1(3) are the functions of a local authority which [<sup>F2</sup>are social services functions within the meaning of Local Authority Social Services Act 1970], including, in particular but without prejudice to the generality of the foregoing, a local authority’s functions

- [<sup>F3</sup>(a) under the Children Act 1989, relating to family assistance orders, local authority support for children and families, care and supervision and emergency protection of children, community homes, voluntary homes and organisations, [<sup>F4</sup>private] children’s homes, private arrangements for fostering children, child minding and day care for young children and children accommodated by [<sup>F5</sup>Health Authorities, Special Health Authorities][<sup>F6</sup>Primary Care Trusts][<sup>F7</sup>National Health Service trusts] and local education authorities or in [<sup>F4</sup>care homes, independent hospitals or schools]; and
- (b) under the National Health Service Act 1977, relating to the provision of care for expectant and nursing mothers.]

#### Textual Amendments

- F2** Words in s. 2 substituted (26.10.2000 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 107, 108(4), **Sch. 5 para. 16**; S.I. 2000/2849, **art. 2**
- F3** S. 2(a)(b) substituted (14.10.1991) for words in s. 2 by Children Act 1989 (c. 41, SIF 20), s. 88, **Sch. 10 para. 1** (with **Sch. 14 para. 1(1)**); S.I.1991/828, **art.3(2)**
- F4** Words in s. 2(a) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 5(3); S.I. 2001/4150, art. 3(3) (a) (subject to transitional provisions in art. 4 and S.I. 2002/1493, art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10)) (subject to transitional provisions in Schs. 1-3)
- F5** Words in s. 2 substituted (1.4.1996) by 1995 c. 17, s. 2(1), **Sch. 1 Pt. III para. 101** (with Sch. 2 paras. 6, 16)
- F6** Words in s. 2(a) inserted (8.2.2000) by S.I. 2000/90, **art. 3 Sch. 1 para. 12**
- F7** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 17**

### *Adoption societies*

## 3 Approval of adoption societies.

- (1) Subject to regulations under section 9(1), a body [<sup>F8</sup>which is a voluntary organisation and desires] to act as an adoption society or, if it is already an adoption society, [<sup>F9</sup>desires] to continue to act as such may, in the manner specified by regulations made by the Secretary of State, apply to the Secretary of State for his approval to its doing so.

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- (2) On an application under subsection (1), the Secretary of State shall take into account the matters relating to the applicant specified in subsections (3) to (5) and any other relevant considerations, and if, but only if, he is satisfied that the applicant is likely to make, or, if the applicant is an approved adoption society, is making, an effective contribution to the Adoption Service he shall by notice to the applicant give his approval, which shall be operative from a date specified in the notice or, in the case of a renewal of approval, from the date of the notice.
- (3) In considering the application, the Secretary of State shall have regard, in relation to the period for which approval is sought, to the following—
  - (a) the applicant's adoption programme, including, in particular, its ability to make provision for children who are free for adoption,
  - (b) the number and qualifications of its staff,
  - (c) its financial resources, and
  - (d) the organisation and control of its operations.
- (4) Where it appears to the Secretary of State that the applicant is likely to operate extensively within the area of a particular local authority he shall ask the authority whether they support the application, and shall take account of any views about it put to him by the authority.
- (5) Where the applicant is already an approved adoption society or, whether before or after the passing of this Act, previously acted as an adoption society, the Secretary of State, in considering the application, shall also have regard to the record and reputation of the applicant in the adoption field, and the areas within which and the scale on which it is currently operating or has operated in the past.
- (6) If after considering the application the Secretary of State is not satisfied that the applicant is likely to make or, as the case may be, is making an effective contribution to the Adoption Service, the Secretary of State shall, subject to section 5(1) and (2), by notice inform the applicant that its application is refused.
- (7) If not withdrawn earlier under section 4, approval given under this section shall last for a period of three years from the date on which it becomes operative, and shall then expire or, in the case of an approved adoption society whose further application for approval is pending at that time, shall expire on the date that application is granted or, as the case may be, refused.

#### Textual Amendments

- F8** Words substituted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 9, [Sch. 2 para. 29](#)
- F9** Word substituted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 9, [Sch. 2 para. 29](#)

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

- C1** S. 3: transfer of functions (W) (1.7.1999) by [S.I. 1999/672](#), art. 2, [Sch. 1](#)

## 4 Withdrawal of approval.

- (1) If, while approval of a body under section 3 is operative, it appears to the Secretary of State that the body is not making an effective contribution to the Adoption Service

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he shall, subject to section 5(3) and (4), by notice to the body withdraw the approval from a date specified in the notice.

- (2) If an approved adoption society fails to provide the Secretary of State with information required by him for the purpose of carrying out his functions under subsection (1), or fails to verify such information in the manner required by him, he may by notice to the society withdraw the approval from a date specified in the notice.
- (3) Where approval is withdrawn under subsection (1) or (2) or expires the Secretary of State may direct the body concerned to make such arrangements as to children who are in its care and other transitional matters as seem to him expedient.

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

C2 S. 4: transfer of functions (W) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

**5 Procedure on refusal to approve, or withdrawal of approval from, adoption societies.**

- (1) Before notifying a body which has applied for approval that the application is refused in accordance with section 3(6) the Secretary of State shall serve on the applicant a notice—
  - (a) setting out the reasons why he proposes to refuse the application;
  - (b) informing the applicant that it may make representations in writing to the Secretary of State within 28 days of the date of service of the notice.
- (2) If any representations are made by the applicant in accordance with subsection (1), the Secretary of State shall give further consideration to the application taking into account those representations.
- (3) The Secretary of State shall, before withdrawing approval of an adoption society in accordance with section 4(1), serve on the society a notice—
  - (a) setting out the reasons why he proposes to withdraw the approval; and
  - (b) informing the society that it may make representations in writing to the Secretary of State within 28 days of the date of service of the notice.
- (4) If any representations are made by the society in accordance with subsection (3), the Secretary of State shall give further consideration to the withdrawal of approval under section 4(1) taking into account those representations.
- (5) This section does not apply where the Secretary of State, after having considered any representations made by the applicant in accordance with this section, proposes to refuse approval or, as the case may be, to withdraw approval for reasons which have already been communicated to the applicant in a notice under this section.

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

C3 S. 5: transfer of functions (W) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

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## *Welfare of children*

### **6 Duty to promote welfare of child.**

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

### **7 Religious upbringing of adopted child.**

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

## *Supplemental*

### **8 Inactive or defunct adoption societies.**

- (1) If it appears to the Secretary of State that an approved adoption society, or one in relation to which approval has been withdrawn under section 4 or has expired, is inactive or defunct he may, in relation to any child who is or was in the care of the society, direct what appears to him to be the appropriate local authority to take any such action as might have been taken by the society or by the society jointly with the authority; and if apart from this section the authority would not be entitled to take that action, or would not be entitled to take it without joining the society in the action, it shall be entitled to do so.
- (2) Before giving a direction under subsection (1) the Secretary of State shall, if practicable, consult both the society and the authority.

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

**C4** S. 8: transfer of functions (W) (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

### **9 Regulation of adoption agencies.**

- (1) The Secretary of State may by regulations prohibit unincorporated bodies from applying for approval under section 3; and he shall not approve any unincorporated body whose application is contrary to regulations made under this subsection.
  - (2) The Secretary of State may make regulations for any purpose relating to the exercise of its functions by <sup>[<sup>F10</sup></sup>an appropriate voluntary organisation].
- <sup>[<sup>F11</sup></sup>(2A) The power under subsection (2) includes in particular power to make in relation to an appropriate voluntary organisation any provision which regulations under section 22(2) or (7) of the Care Standards Act 2000 (regulation of establishments and agencies) may make in relation to a fostering agency (within the meaning of that Act).]

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- (3) The Secretary of State may make regulations with respect to the exercise by local authorities of their functions of making or participating in arrangements for the adoption of children.
- [<sup>F12</sup>(3A) The power under subsection (3) includes in particular power to make in relation to the functions there mentioned any provision which regulations under section 48 of the Care Standards Act 2000 (regulation of the exercise of relevant fostering functions) may make in relation to relevant fostering functions (within the meaning of Part III of that Act).]
- (4) Any person who contravenes or fails to comply with regulations made under subsection (2) [<sup>F13</sup>or (3)] shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F14</sup>level 5 on the standard scale].

#### Textual Amendments

- F10** Words in s. 9(2) substituted (1.7.2001 for W. and otherwise *prosp.*) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 5(6)(a)**; S.I. 2001/2190, art. 2, **Sch.**
- F11** S. 9(2A) inserted (1.7.2001 for W., 24.2.2003 for E. for specified purposes, 30.4.2003 in so far as not already in force) by Care Standards Act 2000 (c. 14), ss. 116, 122, **Sch. 4 para. 5(6)(b)**; S.I. 2001/2190, art. 2, **Sch.**; S.I. 2003/365, **art. 3(2)(a)(ii)** (with **Sch.**); S.I. 2003/365, **art. 3(5)(c)**
- F12** S. 9(3A) inserted (1.7.2001 for W., 24.2.2003 for E. for specified purposes, 30.4.2003 in so far as not already in force) by Care Standards Act 2000 (c. 14), ss. 116, 122, **Sch. 4 para. 5(6)(c)**; S.I. 2001/2190, art. 2, **Sch.**; S.I. 2003/365, **art. 3(2)(a)(ii)** (with **Sch.**); S.I. 2003/365, **art. 3(5)(c)**
- F13** Words in s. 9(4) inserted (1.7.2001 for W. and otherwise *prosp.*) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 5(6)(d)**; S.I. 2001/2190, art. 2, **Sch.**
- F14** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46

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

- C5** S. 9: transfer of functions (W) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

10 ..... <sup>F15</sup>

#### Textual Amendments

- F15** S. 10 repealed by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), ss. 9, 30, **Sch. 2 para. 30, Sch. 10 Pt. 1**

### 11 Restriction on arranging adoptions and placing of children.

- (1) A person other than an adoption agency shall not make arrangements for the adoption of a child, or place a child for adoption, unless—
- the proposed adopter is a relative of the child, or
  - he is acting in pursuance of an order of the High Court.
- [<sup>F16</sup>(2) An adoption society which is—
- approved as respects Scotland under section 3 of the Adoption (Scotland) Act <sup>M1</sup>1978; or

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(b) registered as respects Northern Ireland under Article 4 of the Adoption (Northern Ireland) Order <sup>M2</sup>1987,

but which is not approved under section 3 of this Act, shall not act as an adoption society in England and Wales except to the extent that the society considers it necessary to do so in the interests of a person mentioned in section 1 of the Act of 1978 or Article 3 of the Order of 1987.]

(3) A person who—

- (a) takes part in the management or control of a body of persons which exists wholly or partly for the purpose of making arrangements for the adoption of children and which is not an adoption agency; or
- (b) contravenes subsection (1); or
- (c) receives a child placed with him in contravention of subsection (1),

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding [<sup>F17</sup>level 5 on the standard scale] or to both.

(4) In any proceedings for an offence under paragraph (a) of subsection (3), proof of things done or of words written, spoken or published (whether or not in the presence of any party to the proceedings) by any person taking part in the management or control of a body of persons, or in making arrangements for the adoption of children on behalf of the body, shall be admissible as evidence of the purpose for which that body exists.

<sup>F18</sup>(5) .....

#### Textual Amendments

**F16** S. 11(2) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 88, [Sch. 10 para.2](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), [art. 3\(2\)](#)

**F17** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#)

**F18** S. 11(5) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(7) [Sch.15](#) (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); [S.I. 1991/828](#), [art. 3\(2\)](#)

#### Marginal Citations

**M1** [1978 c.28\(49:11\)](#).

**M2** [S.I. 1987/2203 \(N.I. 22\)](#).

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