
STATUTORY INSTRUMENTS

2005 No. 890

**The Adoption Information and Intermediary Services
(Pre-Commencement Adoptions) Regulations 2005**

PART 2

APPLICATIONS FOR INTERMEDIARY SERVICES

Applications that may be accepted

- 5.—(1) Subject to paragraphs (2) and (3) an intermediary agency may accept an application—
- (a) from a person adopted before 30th December 2005 for assistance in contacting a relative of his; or
 - (b) from a relative of a person adopted before 30th December 2005 for assistance in contacting that person.

(2) Where the intermediary agency has limited capacity to deal with such applications, it must give priority to applications in respect of adoptions before 12th November 1975.

(3) The applicant and the person with whom the applicant seeks contact (“the subject”) must be aged 18 or over.

No obligation to proceed if not appropriate

6.—(1) An intermediary agency that accepts an application under these Regulations is not required to proceed with it, or having begun to proceed with it is not required to continue, if the intermediary agency considers that it would not be appropriate to do so.

(2) In deciding whether it is appropriate to proceed (or continue proceeding) with an application the intermediary agency must have regard to—

- (a) the welfare of—
 - (i) the applicant;
 - (ii) the subject; and
 - (iii) any other persons who may be identified or otherwise affected by the application;
- (b) any views of the appropriate adoption agency obtained under regulation 12;
- (c) any information obtained from the Adoption Contact Register under regulation 13,

and all the other circumstances of the case.

(3) In relation to any decision under paragraph (2) the intermediary agency must have particular regard to the welfare of any person mentioned in paragraph (2)(a)(iii) who is under the age of 18.

(4) If, at any time, the intermediary agency ascertains that the subject of an application is under the age of 18 it must not proceed further with the application in relation to that subject.

Consent of subject to disclosure etc.

7.—(1) Subject to paragraph (2) an intermediary agency must not disclose to the applicant any identifying information about the subject without the subject’s consent.

(2) If the subject has died or the agency determines that he is incapable of giving informed consent, the agency may disclose such identifying information about him to the applicant as it considers appropriate, having regard to the matters referred to in regulation 6(2).

(3) The agency must take all reasonable steps to ensure that any person whose consent to disclosure is required under this regulation has sufficient information to make an informed decision as to whether to give his consent.

(4) In this regulation and in regulations 9 and 12, “identifying information” means information which, whether taken on its own or together with other information possessed by the applicant, enables the subject to be identified or traced.

Veto by an adopted person

8.—(1) A veto applies in relation to an application under regulation 5 where—

- (a) the subject is the adopted person; and
- (b) that person has notified the appropriate adoption agency in writing—
 - (i) that he does not wish to be contacted by an intermediary agency in relation to an application under these Regulations; or
 - (ii) that he only wishes to be contacted in specified circumstances.

(2) Where the appropriate adoption agency is notified of a veto under paragraph (1) it must keep a written record of it on the adopted person’s case record and ensure that it is made known to any intermediary agency that contacts it in relation to an application under these Regulations.

(3) Where an intermediary agency is aware that a veto applies, it must not proceed with the application except in the circumstances referred to in paragraph (1)(b)(ii).

Provision of background information where consent refused etc.

9. In a case where the consent of the subject is refused or cannot be obtained under regulation 7 or a veto applies under regulation 8, nothing in those regulations prevents the intermediary agency from disclosing to the applicant any information about the subject that is not identifying information and that the agency considers it appropriate to disclose.

Counselling

10.—(1) An intermediary agency must provide written information about the availability of counselling to any person who—

- (a) makes an application to it under these Regulations; or
- (b) is the subject of such an application and is considering whether to consent to disclosure of information about himself to the applicant.

(2) The information provided under paragraph (1) must include details of—

- (a) persons offering counselling; and
- (b) fees that may be charged by such persons.

(3) If a person mentioned in paragraph (1) requests that counselling be provided for him, the intermediary agency must secure the provision of counselling for that person.

(4) The intermediary agency may provide the counselling itself or make arrangements with any of the following persons for provision of counselling—

- (a) if the person is in England or Wales, another adoption agency or a registered adoption support agency;
- (b) if the person is in Scotland, a Scottish adoption agency;
- (c) if the person is in Northern Ireland, an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987⁽¹⁾ or any Board; or
- (d) if the person is outside the United Kingdom, any person or body outside the United Kingdom who appears to the agency to correspond in its functions to a body mentioned in paragraphs (a) to (c).

(5) In this regulation “Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽²⁾ or where the functions of a Board are exercisable by a Health and Social Services Trust, that Trust.

⁽¹⁾ S.I.1987/2203 (N.I. 22).
⁽²⁾ S.I. 1972/1265 (N.I. 14).