

EXPLANATORY MEMORANDUM TO
THE ADOPTION AND CHILDREN ACT REGISTER (SEARCH AND INSPECTION)
REGULATIONS 2017

2017 No. 978

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 To enable prospective adopters approved by any adoption agency to search and inspect the Adoption and Children Act Register (the Register) for the purposes of assisting them to find a child for whom they would be appropriate adopters and/ or for the purposes of assisting them to find a child for whom they would care for on a fostering basis while the adoption agency is waiting for authority to place the child for the purposes of adoption. Adoption agencies are local authorities, and registered adoption societies (known as voluntary adoption agencies). They may be working together as regional adoption agencies (known as RAAs).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 This is the second exercise of the power under section 128A of the Adoption and Children Act 2002 (the 2002 Act), as inserted by section 7 of the Children and Families Act 2014 (the 2014 Act) and therefore are subject to negative resolution procedure.
- 4.2 The Register is permitted, but not required, by section 125 of the 2002 Act. Details of how the Register operates are defined by the Adoption and Children Act Register Regulations 2014.
- 4.3 This instrument is being made to allow disclosure of information in the Register to approved prospective adopters from all adoption agencies, not just those from the adoption agencies specified in the Adoption and Children Act Register (Search and Inspection) (Pilot) Regulations 2014.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 A non-statutory register was launched in August 2001, and fully operational from April 2002, following recommendations of the then Prime Minister's review of adoption in 2000. The 2014 Act placed this on a statutory basis.
- 7.2 The Register is currently run under contract by Coram on behalf of the Secretary of State for Education, under section 126 of the Adoption and Children Act 2002 which allows the Secretary of State for Education to make arrangements with an organisation to establish and maintain the Register.
- 7.3 The Register is a database that includes details of (a) children waiting to be adopted (including those for whom the local authority is waiting to obtain a placement order or parental consent for before the agency may place the child for the purposes of adoption) and (b) approved prospective adopters (adopters). The Register increases the chances of a child being placed for adoption and reduces the delay in doing so. The Register holds information on a wider pool of adopters available to adoption agencies beyond those recruited locally to help facilitate matches for children and adopters on a national basis. Adoption agencies are required by the Adoption Agencies Regulations 2005 to place unmatched children and adopters on the Register no later than 3 months from the date of the relevant determinations.
- 7.4 Once a prospective adopter is approved to adopt, previously their role was limited. Many wait for months or longer to be matched with a child. The Government wanted to give adopters a more active role in identifying children for whom they might be suitable as adoptive parents so from July 2016 to Spring 2017 piloted adopter access to the Register with 29 specified adoption agencies. Adopters identifying children themselves is known as "adopter-led matching". Experience has shown that they will often consider children that they would otherwise not consider (or be considered for) via traditional matching techniques. The Register has a key role to play in supporting this approach.
- 7.5 Adopter-led matching was included in a wider programme set out in *An Action Plan for Adoption: Tackling Delay*, published by the Department for Education on 14 March 2012, and *Further Action on Adoption: Finding More Loving Homes*, published by the Department for Education on 24 January 2013 (both available at www.gov.uk). A key aim of the adoption reform programme remains for children to be adopted without delay and these Regulations play an important part in achieving that aim.
- 7.6 The adopter access pilot was evaluated in 2017 and shown to be successful with an increase in both the number of matches and speed of matches. The Department has also heard anecdotal feedback from the sector about the positive impact of the adopter access pilot, and so is now rolling out adopter access to approved prospective adopters from all agencies.
- 7.7 As in the pilot, adopters will only be able to access certain specified information about children. This information will not enable them to identify or make any direct

approaches to the child or their birth family. The information will be anonymised with any identifying information having been removed. Adopters will continue to need to work closely with the Register staff, their own social worker, and subsequently the child's social worker, to follow up any links generated by their search. All adopters will still need professional advice and support on this process and social workers will still have a crucial role to play. The final decision whether the adopter is suitable to adopt the particular child will remain the responsibility of the adoption agency.

7.8 The Register is currently funded by central Government.

8. Consultation outcome

8.1 Following piloting of adopter access, an independent evaluation has been carried out. This has shown adopter access to have a positive impact on the number and speed of matches.

8.2 There are no statutory requirements for consultation however we have also consulted informally with the sector who are supportive of rolling out adopter access following the pilot.

9. Guidance

9.1 Once these Regulations come into force, adoption agencies will be notified by the Register's operator.

10. Impact

10.1 The impact on business, charities or voluntary bodies (i.e. voluntary adoption agencies) is minimal as they are already required to provide the Register with information about adopters, unless they have already identified a particular child they are considering placing with the prospective adopter (see regulation 30G of the Adoption Agencies Regulations 2005). Voluntary adoption agencies (including those acting as RAAs) will need to notify the Register in order for prospective adopters to be provided with a user identification supplied by the Register. The agency's social workers will need to talk to their adopters how they are going to use the Register.

10.2 The impact on the public sector is minimal as local authorities (including those acting as RAAs) are also already required to provide the Register with information about adopters, and information about children when they are not actively exploring a potential match with a named prospective adopter. Local authorities will need to notify the Register in order for prospective adopters to be provided with a user identification supplied by the Register. The local authorities' social workers will need to talk to their adopters about how they are going to use the Register.

10.3 Social workers in all adoption agencies will need to commit to following up on links identified by their adopters in the same way that they currently follow up any links they generate themselves by using the Register. The Government expects that allowing adopters to search the Register will lead to quicker matches for children. This might lead to reductions in cost in the public sector, as children will be in foster care for a shorter period of time.

10.4 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 Once adopter access is rolled out by this instrument, we will continue to monitor:

- Numbers of matches made and speed of matches made under the new approach, especially for children considered as harder to place;
- Changes in approach and working practices among prospective adopters, social workers and Register staff; and
- Other operational considerations such as costs relating to IT, impact and suitability of data security measures.

12.2 The Department for Education will act accordingly on the findings of this ongoing monitoring.

13. Contact

13.1 Sheila Shuttlewood at the Department for Education Telephone: 0207 654 6185 or email: Sheila.shuttlewood@education.gov.uk can answer any queries regarding the instrument.