



Isle of Man

Ellan Vannin

AT 14 of 1984

ADOPTION ACT 1984



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ADOPTION ACT 1984

<i>Received Royal Assent:</i>	<i>20 June 1984</i>
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<i>Commenced:</i>	<i>See endnotes</i>

AN ACT to revise the law relating to adoption, and for connected purposes.

GENERAL NOTES

1. The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.
2. References to a Board of Tynwald are to be construed in accordance with the *Government Departments Act 1987* s 7.

PART I – ADOPTION ORDERS

The making of adoption orders

1 Adoption orders

[P1976/36/12; P1975/72/8]

- (1) An adoption order is an order giving parental responsibility for a child to the adopters to the exclusion of any other person having such responsibility, made on their application by the High Court (in this Act called “the Court”).¹
- (2) The order does not affect parental responsibility so far as it relates to any period before the making of the order.²
- (3) The making of an adoption order operates to extinguish —
 - (a) the parental responsibility for the child of any person other than the adopters;
 - (b) any order under Part I or II of the *Family Law Act 1991* or under the *Children and Young Persons Act 2001*;³
 - (c) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the

child's maintenance or upbringing for any period after the making of the order.⁴

- (4) Subsection (3)(c) does not apply to a duty arising by virtue of an agreement —
 - (a) which constitutes a trust; or
 - (b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.⁵
- (5) An adoption order may not be made in relation to a child who is or has been married.
- (5A) An adoption order may not be made in relation to a person who is or has been a civil partner.⁶
- (6) An adoption order may contain such terms and conditions as the Court thinks fit.
- (7) An adoption order may be made notwithstanding that the child is already an adopted child.

2 Child to live with adopters before order made

[P1976/36/13; P1975/72/9]

- (1) Where —
 - (a) the applicant, or one of the applicants, is a parent, step-parent or relative of the child; or
 - (b) the child was placed with the applicants by an adoption agency or in pursuance of an order of the Court,

an adoption order shall not be made unless the child is at least 19 weeks old and at all times during the preceding 13 weeks had his home with the applicants or one of them.

- (2) Where subsection (1) does not apply, an adoption order shall not be made unless the child is at least 12 months old and at all times during the preceding 12 months had his home with the applicants or one of them.
- (3) An adoption order shall not be made unless the Court is satisfied that sufficient opportunities to see the child with the applicant, or, in the case of an application by a couple, both applicants together in the home environment have been afforded —
 - (a) where the child was placed with the applicant by an approved adoption society, to that society, or
 - (b) in any other case, to the Department of Social Care (in this Act called "the Department").^{7 8}
- (4) In relation to —
 - (a) an adoption proposed to be effected by a Convention adoption order; or

- (b) an adoption of a child habitually resident outside the British Islands which is proposed to be effected by an adoption order other than a Convention adoption order,

subsection (1) shall have effect with the substitution of “6 months” for “13 weeks”.⁹

3 Adoption by couple¹⁰

[P1976/36/14; P1975/72/10]

- (1) An adoption order may be made on the application of a couple where each has attained the age of 21 years but an adoption order shall not otherwise be made on the application of more than one person.¹¹
- (2) An adoption order shall not be made on the application of a couple unless —
 - (a) at least one of them is domiciled in the Island, a part of the United Kingdom or the Channel Islands; or
 - (b) the application is for a Convention adoption order and the requirements of regulations under section 6A are complied with.¹²
- (3) [Repealed]¹³

4 Adoption by one person

- (1) An adoption order may be made on the application of one person where he has attained the age of 21 years and —
 - (a) is not married or a civil partner, or
 - (b) is married or a civil partner and the court is satisfied that —
 - (i) the applicant’s spouse or civil partner cannot be found; or
 - (ii) the spouses or civil partners have separated and are living apart, and the separation is likely to be permanent; or
 - (iii) the applicant’s spouse or civil partner is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.¹⁴
- (2) An adoption order shall not be made on the application of one person unless —
 - (a) he is domiciled in the Island, a part of the United Kingdom or the Channel Islands; or
 - (b) the application is for a Convention adoption order and the requirements of regulations under section 6A are complied with.¹⁵
- (3) An adoption order shall not be made on the application of the mother or father of the child alone unless the Court is satisfied that —
 - (a) the other natural parent is dead or cannot be found; or

- (b) there is some other reason justifying the exclusion of the other natural parent,

and where such an order is made the reason justifying the exclusion of the other natural parent shall be recorded by the Court.

- (4) [Repealed]¹⁶

5 Parental agreement

[P1976/36/16; P1975/72/12;]

- (1) An adoption order shall not be made unless, in the case of each parent or guardian of the child, the Court is satisfied that —
 - (a) he freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants); or
 - (b) his agreement to the making of the adoption order should be dispensed with on a ground specified in subsection (2).
- (2) The grounds mentioned in subsection (1)(b) are that the parent or guardian —
 - (a) cannot be found or is incapable of giving agreement;
 - (b) is withholding his agreement unreasonably;
 - (c) has persistently failed without reasonable cause to discharge the parental duties in relation to the child;
 - (d) has abandoned or neglected the child;
 - (e) has persistently ill-treated the child;
 - (f) has seriously ill-treated the child (subject to subsection (5)).
- (2A) Subsection (1) does not apply if there is in force in respect of the child an order under —
 - (a) section 18 of the Adoption Act 1976 (an Act of Parliament);
 - (b) section 18 of the Adoption (Scotland) Act 1978 (an Act of Parliament);
 - (c) article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987 [SI 1987/2203]; or
 - (d) section 21 of the Adoption and Children Act 2002 (an Act of Parliament), or any corresponding provision having effect in Scotland or Northern Ireland.¹⁷
- (3) [Repealed]¹⁸
- (4) Agreement is ineffective for the purposes of subsection (1)(a) if given by the mother less than 6 weeks after the child's birth.

- (5) Subsection (2)(f) does not apply unless (because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of the parent or guardian is unlikely.

6 Convention adoption orders

An adoption order shall be made as a Convention adoption order if —

- (a) the application is for a Convention adoption order; and
- (b) such requirements as may be prescribed are complied with.¹⁹

6A Regulations giving effect to Convention

- (1) Subject to the provisions of this Act, the Department may make regulations providing for giving effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993 [Cm 2691] (“the Convention”).
- (2) Regulations under this section may —
- (a) apply, with or without modifications, any provision of this Act; and
 - (b) provide that any person who contravenes or fails to comply with any provision of the regulations is to be guilty of an offence and liable on summary conviction to custody for a term not exceeding 3 months, or a fine not exceeding £5,000, or both;
 - (c) make such incidental, supplementary, consequential or transitional provision as appears to the Department to be expedient.²⁰

6B Central Authority and accredited bodies

- (1) The functions under the Convention of the Central Authority shall be discharged by the Department.
- (2) An approved adoption society is an accredited body for the purposes of the Convention if it is designated under section 14(2A) for the purpose of providing facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.
- (3) The functions under Article 9(a) to (c) of the Convention shall be discharged by the Department and by accredited bodies on behalf of the Department.²¹

*Supplemental***7 Notification to Department of adoption application**

[P1976/36/22; P1975/72/18]

- (1) An adoption order shall not be made in respect of a child who was not placed with the applicant by an adoption agency unless the applicant has, at least 3 months before the date of the order, given notice to the Department of his intention to apply for the adoption order.²²
- (2) On receipt of such a notice, the Department shall investigate the matter and submit to the Court a report of their investigation.²³
- (3) Under subsection (2), the Department shall in particular investigate —
 - (a) so far as is practicable, the suitability of the applicant, and any other matters relevant to the operation of section 12 in relation to the application; and
 - (b) whether the child was placed with the applicant in contravention of section 16.²⁴

8 Reports where child placed by agency

[P1976/36/23; P1975/72/22(3)]

Where an application for an adoption order relates to a child placed by an adoption agency, the agency shall submit to the Court a report on the suitability of the applicants and any other matters relevant to the operation of section 12, and shall assist the Court in any manner the Court may direct.

9 Restrictions on making adoption orders

[P1976/36/24; P1975/72/22(4) and (5)]

- (1) The Court shall not proceed to hear an application for an adoption order in relation to a child where a previous application for a British adoption order made in relation to the child by the same persons was refused by any court unless —
 - (a) in refusing the previous application the court in question directed that this subsection should not apply; or
 - (b) it appears to the Court that because of a change in circumstances or for any other reason it is proper to proceed with the application.
- (2) The Court shall not make an adoption order in relation to a child unless it is satisfied that the applicants have not, as respects the child, contravened section 45.

10 Interim orders

[P1976/36/25; P1975/72/19]

- (1) Where on an application for an adoption order the requirements of section 5(1) and 7(2) are complied with, the Court may postpone the determination of the application and make an order vesting the legal custody of the child in the applicants for a probationary period, not exceeding 2 years, upon such terms for the maintenance of the child and otherwise as the Court thinks fit.
- (2) Where the probationary period specified in an order under subsection (1) is less than 2 years, the Court may by a further order extend the period to a duration not exceeding 2 years in all.

11 [Repealed]²⁵*Welfare of children***12 Duty to promote welfare of child**

[P1976/36/6; P1975/72/3]

In reaching any decision relating to the adoption of a child, the Court or an 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.

13 Religious upbringing of adopted child

[P1976/36/7; P1975/72/13]

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.

14 Adoption service

[P1958/5/32; P1975/72/1(1) and 4(2)]

- (1) It is the duty of the Department to establish and maintain 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 appropriate assessment, placing and counselling facilities or to secure that they are provided by approved adoption societies.²⁶

- (2) The Department may by order designate an adoption society as an approved adoption society for the purposes of this Act.²⁷
- (2A) An order under subsection (2) may designate an adoption society for the purpose of providing facilities —
- (a) in respect of adoptions other than those mentioned in subsection (2B); or
 - (b) in respect of any adoptions, including those so mentioned.²⁸
- (2B) The adoptions mentioned in subsection (2A) are —
- (a) a Convention adoption;
 - (b) an adoption effected by a Convention adoption order;
 - (c) an overseas adoption;
 - (d) an adoption of a child habitually resident in the British Islands which is not a Convention adoption and is effected under the law of a country or territory outside the British Islands; and
 - (e) an adoption of a child habitually resident outside the British Islands which is effected by an adoption order other than a Convention adoption order.²⁹
- (3) The Department may make regulations for any purposes relating to the exercise by an approved adoption society of its functions.³⁰
- (4) Any person who contravenes or fails to comply with regulations made under subsection (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.
- (5) The Department may, with the consent of the Treasury, make grants to an approved adoption society for assisting it in the exercise of its functions.³¹

15 Information concerning adoption

[P1976/36/58A; P1983/41/2/35]

Every approved adoption society shall transmit to the Department, at such times and in such form as it may direct, such particulars as the Department may require with respect to —

- (a) their performance of all or any of their functions under this Act; and
- (b) the children and other persons in relation to whom they have exercised those functions.³²

16 Restriction on arranging adoptions and placing of children

[P1976/36/11; P1958/5/29; P1975/72/28]

- (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 —

- (a) the proposed adopter is a relative of the child; or
 - (b) he is acting in pursuance of an order of the Court.
- (2) 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 a fine not exceeding £2,500.
- (3) In any proceedings for an offence under subsection (2)(a), 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.
- (4) Schedule 1 to the *Family Law Act 1991* shall apply where a person is convicted of a contravention of subsection (1) as they apply where an application for an adoption order is refused.³³

PART II – CARE AND PROTECTION OF CHILDREN AWAITING ADOPTION

Restrictions on removal of children

17 Restrictions on removal where adoption agreed

[P1976/36/27; P1958/5/34; P1975/72/29]

- (1) While an application for an adoption order is pending in a case where a parent or guardian of the child has agreed to the making of the adoption order (whether or not he knows the identity of the applicant), the parent or guardian is not entitled, against the will of the person with whom the child has his home, to remove the child from the custody of that person except with the leave of the Court.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

18 Restrictions on removal where applicant has provided home for 5 years

[P1976/36/28; P1958/5/34A; P1975/72/29]

- (1) While an application for an adoption order in respect of a child made by the person with whom the child has had his home for the 5 years preceding the application is pending, no person is entitled, against the will of the applicant, to remove the child from the applicant's custody except with the leave of the Court or under authority conferred by any enactment or on the arrest of the child.
- (2) Where a person ("the prospective adopter") gives notice to the Department that he intends to apply for an adoption order in respect of a child who for the preceding 5 years has had his home with the prospective adopter, no person is entitled, against the will of the prospective adopter, to remove the child from the prospective adopter's custody, except with the leave of the Court or under authority conferred by any enactment or on the arrest of the child, before —
 - (a) the prospective adopter applies for the adoption order; or
 - (b) the period of 3 months from the receipt of the notice by the Department expires,³⁴whichever occurs first.³⁵
- (3) In any case where subsection (1) or (2) applies and —
 - (a) the child was in the care of the Department before he began to have his home with the applicant or, as the case may be, the prospective adopter; and
 - (b) the child remains in the care of the Department,the Department shall not remove the child from the actual custody of the applicant or of the prospective adopter except in accordance with section 19 or 20 or with leave of the Court.³⁶
- (4) [Repealed]³⁷
- (5) Subsection (2) does not apply to any further notice served by the prospective adopter on the Department in respect of the same child during the period referred to in subsection (2)(b) or within 28 days after its expiry.³⁸
- (6) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.
- (7) The Department may by order amend subsection (1) or (2) to substitute a different period for the period of 5 years mentioned in that subsection (or the period which, by a previous order under this subsection, was substituted for that period).³⁹

19 Return of child taken away in breach of s 17 or 18

[P1976/36/29; P1975/72/30]

- (1) The Court may, on the application of a person from whose custody a child has been removed in breach of section 17 or 18 order the person who has so removed the child to return the child to the applicant.
- (2) The Court may, on the application of a person who has reasonable grounds for believing that another person is intending to remove a child from the applicant's custody in breach of section 17 or 18 by order direct that other person not to remove the child from the applicant's custody in breach of section 17 or 18.
- (3) If after making an order under subsection (1), the Court is satisfied that the child has not been returned to the applicant, the Court may make an order authorising a constable to search such premises as may be specified in the order for the child and, if the constable finds the child, to return the child to the applicant.
- (4) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for believing that a child to whom an order under subsection (1) relates is in premises specified in the information, he may issue a warrant authorising a constable to search the premises for the child; and, if a constable acting in pursuance of a warrant under this section finds the child, he shall return the child to the person on whose application the order under subsection (1) was made.
- (5) An order under subsection (3) may be enforced in like manner as a warrant for committal.

20 Return of children placed for adoption by adoption agencies

[P1976/36/30; P1958/5/35; P1975/72/31]

- (1) Subject to subsection (2), at any time after a child has been delivered into the custody of any person in pursuance of arrangements made by an adoption agency for the adoption of the child by that person, and before an adoption order has been made on the application of that person in respect of the child —
 - (a) that person may give notice to the agency of his intention not to retain the custody of the child; or
 - (b) the agency may cause notice to be given to that person of its intention not to allow the child to remain in his custody.
- (2) No notice under subsection (1)(b) shall be given in respect of a child in relation to whom an application has been made for an adoption order except with the leave of the Court.
- (3) Where a notice is given to an adoption agency by any person or by an adoption agency to any person under subsection (1), or where an application for an adoption order made by any person in respect of a

child placed in his actual custody by an adoption agency is refused by the Court or withdrawn, that person shall, within 7 days after the date on which notice was given or the application refused or withdrawn, as the case may be, cause the child to be returned to the agency, who shall receive the child.

- (4) Where the period specified in an interim order made under section 10 (whether as originally made or as extended under section 10(2)) expires without an adoption order having been made in respect of the child, subsection (3) shall apply as if the application for an adoption order upon which the interim order was made, had been refused at the expiration of that period.
- (5) It shall be sufficient compliance with the requirements of subsection (3) if the child is delivered to, and is received by, a suitable person nominated for the purpose by the adoption agency.
- (6) Where an application for an adoption order is refused, the Court may, if it thinks fit at any time before the expiry of the period of 7 days mentioned in subsection (3), order that period to be extended to a duration, not exceeding 6 weeks, specified in the order.
- (7) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500; and the court by which the offender is convicted may order the child in respect of whom the offence is committed to be returned to his parent or guardian or to the adoption agency which made the arrangements referred to in subsection (1).

21 Application of s 20 where child not placed for adoption

[P1976/36/31; P1958/5/36]

- (1) Where a person gives notice in pursuance of section 7(1) to the Department of his intention to apply for an adoption order in respect of a child who is for the time being in the care of the Department, not being a child who was delivered into the actual custody of that person in pursuance of such arrangements as are mentioned in section 20(1), that section shall apply as if the child had been so delivered, except that where the application is refused by the Court or withdrawn the child need not be returned to the Department unless the Department so requires.⁴⁰
- (2) Where notice of intention is given as aforesaid in respect of any child who is for the time being in the care of the Department, then, until the application for an adoption order has been made and disposed of, any right of the Department to require the child to be returned to it otherwise than in pursuance of section 20(1) shall be suspended.⁴¹
- (3) While the child has his home with the person by whom the notice is given, no contribution shall be payable (whether under a contribution

order or otherwise) in respect of the child by any person liable under Schedule 3 to the *Children and Young Persons Act 2001* to make contributions in respect of him (but without prejudice to the recovery of any sum due at the time the notice is given), unless 12 weeks have elapsed since the giving of the notice without the application being made or the application has been refused by the Court or withdrawn.⁴²

Protected children

22 Meaning of “protected child”

[P1976/36/32; P1958/5/37]

- (1) Where a person gives notice in pursuance of section 7(1) to the Department of his intention to apply for an adoption order in respect of a child, the child is for the purpose of this Part a protected child while he has his home with that person.⁴³
- (2) A child is not a protected child by reason of any such notice as is mentioned in subsection (1) while he is —
 - (a) in a mental hospital; or⁴⁴
 - (b) liable to be detained, or subject to guardianship, under the *Mental Health Act 1998*; or⁴⁵
 - (c) suffering from mental disorder within the meaning of the said Act of 1998 and resident in a residential care home within the meaning of the *Nursing and Residential Homes Act 1988*;⁴⁶
- (3) A protected child ceases to be a protected child —
 - (a) on the appointment of a guardian for him under Part I of the *Children and Young Persons Act 2001*; or⁴⁷
 - (b) on the notification to the Department that the application for an adoption order has been withdrawn; or⁴⁸
 - (c) on the making of any of the following orders in respect of the child —
 - (i) an adoption order; or
 - (ii) a residence order, a care order or a supervision order under the *Children and Young Persons Act 2001*;⁴⁹
 - (iii) and (iv) [Repealed]⁵⁰
 - (d) on his attaining the age of 18 years,whichever first occurs.

23 Duty of Department to secure well-being of protected children

[P1958/5/38 and 39]

- (1) The Department shall secure that protected children are visited from time to time by authorised officers who shall satisfy themselves as to the well-being of the children and give such advice as to their care and maintenance as may appear to be needed.⁵¹
- (2) Sections 98(1) and (3) to (6) and 99 of the *Children and Young Persons Act 2001* apply to any premises in which an authorised officer has cause to believe —
 - (a) a protected child is or will be living; or
 - (b) a child is or will be living with a person with whom he has been placed by an adoption agency;as they apply to premises referred to in section 98(1) of that Act.⁵²

24 [Repealed]⁵³

25 Notices and information to be given to Department

[P1976/36/35; P1958/5/40]

- (1) Where a person who has a protected child in his actual custody changes his permanent address he shall, not less than 2 weeks before the change, or, if the change is made in an emergency, not later than one week after the change, give notice specifying the new address to the Department.⁵⁴
- (2) If a protected child dies, the person in whose actual custody he was at his death shall within 48 hours give notice of the child's death to the Department.⁵⁵

26 Offences relating to protected children

[P1976/36/36; P1958/5/44]

- (1) A person shall be guilty of an offence if —
 - (a) being required under section 25 to give any notice or information, he fails to give the notice within the time specified in that provision or fails to give the information within a reasonable time, or knowingly makes or causes or procures another person to make any false or misleading statement in the notice or information;
 - (b) he refuses to allow the visiting of a protected child by an authorised officer or the inspection under the power conferred by section 23(2) of any premises; or
 - (c) he refuses to comply with an order under section 24 for the removal of any child or obstructs any person in the execution of such an order.

- (2) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding 12 months or to a fine, or to both, or on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

27 Miscellaneous provisions relating to protected children

[P1976/36/37; P1958/5/45-48]

- (1) [Repealed]⁵⁶
- (2) A person who maintains a protected child shall be deemed for the purposes of life assurance to have no interest in the life of the child.
- (3) and (4) [Repealed]⁵⁷

PART III – STATUS OF ADOPTED CHILDREN

28 Meaning of “adoption” in Part III

[P1976/36/38; P1975/72/1/1]

- (1) In this Part, “**adoption**” means adoption —
- (a) by an adoption order; or
 - (b) by an adoption made under —
 - (i) the Adoption Acts 1962 to 1974, or any of those Acts; or
 - (ii) any enactment repealed by any of those Acts; or
 - (iii) any enactment repealed by any enactment mentioned in paragraph (ii); or
 - (c) by an order made in any part of the United Kingdom or any of the Channel Islands; or
 - (cc) which is a Convention adoption; or⁵⁸
 - (d) which is an overseas adoption; or
 - (e) which is an adoption recognised by the law of the Island and effected under the law of any other country,
- and cognate expressions shall be construed accordingly.
- (2) The definition of adoption includes, where the context admits, an adoption effected before the passing of this Act; and the date of an adoption effected by an order is the date of the making of the order.

29 Status conferred by adoption

[P1976/36/39; P1975/72/1/ 3 and 9]

- (1) An adopted child shall be treated in law —

- (a) where the adopters are a couple, as if he had been born as a child of the marriage or civil partnership (whether or not he was in fact born after the marriage was solemnized or registered as the case may be);⁵⁹
 - (b) in any other case, as if he were the legitimate child of the relationship in question (but not as a child of any actual marriage or civil partnership of the adopter).⁶⁰
- (2) An adopted child shall, subject to subsections (3) and (3A), be treated in law as if he were not the child of any person other than the adopters or adopter.⁶¹
- (3) In the case of a child adopted by one of its natural parents as sole adoptive parent, subsection (2) has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.
- (3A) Where, in the case of a child adopted under a Convention adoption, the Court is satisfied, on an application under this subsection —
 - (a) that under the law of the country in which the adoption was effected the adoption is not a full adoption;
 - (b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption, or that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention); and
 - (c) that it would be more favourable to the child for a direction to be given under this subsection,the Court may direct that subsection (2) shall not apply, or shall not apply to such extent as may be specified in the direction.

In this subsection “full adoption” means an adoption by virtue of which the child falls to be treated in law as if he were not the child of any person other than the adopters or adopter.⁶²
- (3B) Sections 45A and 45B of the *Judicature (Matrimonial Causes) Act 1976* apply with any necessary modifications to proceedings under subsection (3A) as they apply to proceedings under section 45 of that Act.⁶³
- (4) It is hereby declared that this section prevents an adopted child from being illegitimate.
- (5) This section has effect —
 - (a) in the case of an adoption before the commencement of this section, from that date; and
 - (b) in the case of any other adoption, from the date of the adoption.
- (6) Subject to the provisions of this Part, this section —

- (a) applies for the construction of enactments or instruments passed or made before the adoption or later, and so applies subject to any contrary indication; and
- (b) has effect as respects things done, or events occurring, after the adoption, or after the commencement of this section, whichever is the later.

30 **Adoptive relatives**

[P1976/36/41; P1975/72/1/4]

A relationship existing by virtue of section 29 may be referred to as an adoptive relationship, and —

- (a) a male adopter may be referred to as the adoptive father;
- (b) a female adopter may be referred to as the adoptive mother;
- (c) any other relative of any degree under an adoptive relationship may be referred to as an adoptive relative of that degree,

but this section does not prevent the term “parent” or any other term not qualified by the word “adoptive” being treated as including an adoptive relative.

31 **Rules of construction for instruments concerning property**

[P1976/36/42; P1975/72/1/6]

- (1) Subject to any contrary indication, the rules of construction contained in this section apply to any instrument, other than an existing instrument, so far as it contains a disposition of property.
- (2) In applying section 29(1) to a disposition which depends on the date of birth of a child or children of the adoptive parent or parents, the disposition shall be construed as if —
 - (a) the adopted child had been born on the date of adoption;
 - (b) 2 or more children adopted on the same date had been born on that date in the order of their actual birth,

but this does not affect any reference to the age of a child.

- (3) Examples of phrases in wills on which subsection (2) can operate are —
 1. Children of A “living at my death or born afterwards”.
 2. Children of A “living at my death or born afterwards before any one of such children for the time being in existence attains a vested interest and who attain the age of 21 years”.
 3. As in example 1 or 2, but referring to grandchildren of A instead of children of A.
 4. A for life “until he has a child”, and then to his child or children.

Note: Subsection (2) will not affect the reference to the age of 21 years in example 2.

- (4) Section 29(2) does not prejudice any interest vested in possession in the adopted child before the adoption, or any interest expectant (whether immediately or not) upon an interest so vested.
- (5) Where it is necessary to determine for the purposes of a disposition of property effected by an instrument whether a woman can have a child, it shall be presumed that once a woman has attained the age of 55 years she will not adopt a child after execution of the instrument, and, notwithstanding section 29, if she does so that child shall not be treated as her child or as the child of her spouse (if any) for the purposes of the instrument.
- (6) In this section, “instrument” includes a private Act settling property, but not any other enactment.

32 Property devolving with peerages, etc

[P1976/36/44; P1975/72/1/16]

- (1) An adoption shall not affect the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any dignity or title of honour.
- (2) Subsection (1) applies only if and so far as a contrary intention is not expressed in the instrument, and shall have effect subject to the terms of the instrument.

33 Protection of trustees and personal representatives

[P1976/36/45; P1975/72/1/15]

- (1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether any adoption has been effected or revoked if that fact could affect entitlement to the property.
- (2) A trustee or personal representative shall not be liable to any person by reason of a conveyance or distribution of the property made without regard to any such fact if he has not received notice of the fact before the conveyance or distribution.
- (3) This section does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person, other than a purchaser, who has received it.

34 Meaning of “disposition”

[P1976/36/46; P1975/72/1/1, 2, 5 and 17]

- (1) In this Part —

“**disposition**” includes the conferring of a power of appointment and any other disposition of an interest in or right over property;

“**power of appointment**” includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.

- (2) This Part applies to an oral disposition as if contained in an instrument made when the disposition was made.
- (3) For the purposes of this Part, the death of the testator is the date at which a will or codicil is to be regarded as made.
- (4) For the purposes of this Part, provisions of the law of intestate succession applicable to the estate of a deceased person shall be treated as if contained in an instrument executed by him (while of full capacity) immediately before his death.

35 Miscellaneous enactments

[P1976/36/47; P1975/72/1/7]

- (1) Section 29 does not apply for the purposes of the table of prohibited degrees of affinity in Schedule 1 to the *Marriage Act 1984* or Schedule 1 to the *Civil Partnership Act 2011* or affect section 7(2)(d) of the *Sexual Offences Act 1992*.⁶⁴
- (2) Section 29 does not apply for the purposes of any provision of —
 - (a) the British Nationality Act 1981 (an Act of Parliament); or
 - (b) the Immigration Act 1971 (an Act of Parliament) as it has effect on the Island; or
 - (c) any instrument having effect under an enactment within paragraph (a) or (b); or
 - (d) any other provision of the law for the time being in force which determines British citizenship, British Dependent Territories citizenship, the status of a British National (Overseas) or British Overseas citizenship.⁶⁵
- (3) to (5) [Repealed]⁶⁶

36 Pensions

[P1976/36/48; P1975/72/1/8]

Section 29(2) does not affect entitlement to a pension which is payable to or for the benefit of a child and is in payment at the time of his adoption.

37 Insurance

[P1976/36/49; P1975/72/1/11]

Where a child is adopted whose natural parent has effected an insurance with a friendly society or a collecting society or an industrial insurance company for the payment on the death of the child of money for funeral expenses, the rights and liabilities under the policy shall by virtue of the adoption be transferred to

the adoptive parents who shall for the purpose of the enactments and statutory provisions relating to such societies and companies be treated as the person who took out the policy.

PART IV – REGISTRATION AND REVOCATION OF ADOPTION ORDERS AND CONVENTION ADOPTIONS

38 Adopted Children Register

[P1976/36/50; P1958/5/20]

- (1) The Chief Registrar shall maintain at the General Registry a register, to be called the Adopted Children Register, in which such entries as may be –
 - (a) directed to be made in it by adoption orders, or
 - (b) required to be made under Schedule 2,and no other entries, shall be made.⁶⁷
- (2) A certified copy of an entry in the Adopted Children Register, if purporting to be signed by or on behalf of the Chief Registrar, shall, without any further or other proof of that entry, be received as evidence of the adoption to which it relates and, where the entry contains a record of the date of the birth or the country or the registration district of the birth of the adopted person, shall also be received as aforesaid as evidence of that date or country or district in all respects as if the copy were a certified copy of an entry in the register of births.
- (3) The Chief Registrar shall cause an index of the Adopted Children Register to be made and kept in the General Registry; and if satisfied that it is appropriate in a particular case, may permit any person to search that index at any time when the General Registry is open for that purpose and to have a certified copy of any entry in the Adopted Children Register on payment of such fee as may be prescribed for the purpose of this subsection by regulations under section 43(2) of the *Civil Registration Act 1984*.⁶⁸
- (4) The Chief Registrar shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection between any entry in the registers of births which has been marked “Adopted” and any corresponding entry in the Adopted Children Register.
- (5) The registers and books kept under subsection (4) shall not be, nor shall any index thereof be, open to public inspection or search, and the Chief Registrar shall not furnish any person with any information contained in or with any copy or extract from any such registers or books except in accordance with section 39 or under an order of the Court.

- (6) Schedule 2, which, among other things, provides for the registration of adoptions and the amendments of adoption orders, shall have effect.

39 Disclosure of birth records of adopted children

[P1976/36/51; P1958/5/20A; P1975/72/26]

- (1) Subject to subsections (4) and (6), the Chief Registrar shall, on an application made in the prescribed manner by an adopted person a record of whose birth is kept by the Chief Registrar and who has attained the age of 18 years, supply to that person on payment of the prescribed fee (if any) such information as is necessary to enable that person to obtain a certified copy of the record of his birth.
- (2) On an application made in the prescribed manner by an adopted person under the age of 18 years, a record of whose birth is kept by the Chief Registrar and who is intending to be married or form a civil partnership in the Island or elsewhere, and on payment of the prescribed fee (if any), the Chief Registrar shall inform the applicant whether or not it appears from information contained in the registers of live births or other records that the applicant and the intended spouse or civil partner may be within the prohibited degrees of affinity specified in Schedule 1 to the *Marriage Act 1984* or Schedule 1 to the *Civil Partnership Act 2011*.⁶⁹
- (3) It shall be the duty of the Department and every approved adoption society to provide counselling for adopted persons who apply for information under subsection (1).⁷⁰
- (4) Before supplying any information to an applicant under subsection (1) the Chief Registrar shall inform the applicant that counselling services are available to him —
- (a) from the Department; or⁷¹
 - (b) if the applicant's adoption was arranged by an approved adoption society, from that society.
- (5) If the applicant chooses to receive counselling from the Department or an adoption society under subsection (4), the Chief Registrar shall send to the Department or to the adoption society of the applicant's choice the information to which the applicant is entitled under subsection (1).⁷²
- (6) The Chief Registrar shall not supply a person who was adopted before the commencement of this section with any information under subsection (1) unless that person has attended an interview with a counsellor in pursuance of arrangements made by the Department or the adoption society from whom the applicant is entitled to receive counselling in accordance with subsection (4).⁷³
- (6A) Where the Chief Registrar is prevented by subsection (6) from supplying information to a person who is not living in the Island, he may, at the

request of that person, supply the information to any person or body outside the Island who —

- (a) either —
 - (i) satisfies the Chief Registrar that he or it is suitable to provide counselling for that person, or
 - (ii) is a person or body specified in section 51(3)(a), (b), (c) or (d) of the Adoption Act 1976 (an Act of Parliament),and
- (b) notifies the Chief Registrar that he or it is willing to provide counselling for that person.⁷⁴

(7) In this section, “prescribed” means prescribed by regulations made by the Clerk of the Rolls.

40 Revocation of adoptions on legitimation

[P1976/36/52; P1958/5/26]

- (1) Where any person adopted by his father or mother alone has subsequently become a legitimated person on the marriage of his father and mother, the Court may, on the application of any of the parties concerned, revoke the adoption order.
- (2) Where any person legitimated by virtue of section 1 of the *Legitimacy Act 1962* had been adopted by his father and mother before the 16th October 1962, the Court may, on the application of any of the parties concerned, revoke the adoption order.
- (3) [Repealed]⁷⁵

41 Annulment, etc., of Convention adoptions

[P1976/36/53; P1968/53/6; 1974/11/6]

- (1) The Court may, on an application under this subsection, by order annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy.⁷⁶
- (2) The Court may, upon an application under this subsection —
 - (a) order that an overseas adoption or a determination shall cease to be valid in the Island on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case;
 - (b) decide the extent, if any, to which a determination has been affected by a subsequent determination.
- (3) Any court in the Island may, in any proceedings in that court, decide that an overseas adoption or a determination shall, for the purposes of those

proceedings, be treated as invalid in the Island on either of the grounds mentioned in subsection (2).

- (4) Except as provided by this section, the validity of a Convention adoption, a Convention adoption order, an overseas adoption or a determination shall not be impugned in proceedings in any court.⁷⁷

42 Provisions supplementary to s 41

[P1976/36/54; P1968/53/7; 1974/11/7]

- (1) Any application for an order under section 41 or a decision under section 41(3) shall be made in the prescribed manner and within such period, if any, as may be prescribed.⁷⁸
- (2) No application shall be made under section 41(1) in respect of an adoption unless immediately before the application is made the person adopted or the adopter habitually resides in the Island or, as the case may be, both adopters habitually reside there.⁷⁹
- (3) In deciding in pursuance of section 41 whether such an authority as is mentioned in section 47 was competent to entertain a particular case, a court shall be bound by any finding of fact made by the authority and stated by the authority to be so made for the purpose of determining whether the authority was competent to entertain the case.
- (4) In section 41 —
- “determination” means such a determination as is mentioned in section 47;
- “relevant time” [Repealed]⁸⁰
- “specified provisions” [Repealed]⁸¹

PART V – MISCELLANEOUS AND SUPPLEMENTAL

43 Adoption of children abroad

[P1976/36/55; P1975/72/25]

- (1) Where, on an application made in relation to a child by a person who is not domiciled in the Island, the Court is satisfied that he intends to adopt the child under the law of or within the country in which the applicant is domiciled, the Court may, subject to the following provisions of this section, make an order vesting in him the parental responsibility for the child.⁸²
- (2) The provisions of Part I relating to adoption orders, except sections (1)1 , 3(2), 4(2), 6 and 10, shall apply in relation to orders under this section as they apply in relation to adoption orders, subject to the modification that in section 2(1) for “19” and “13” there are substituted “32” and “26” respectively.

- (3) Sections 38 and 39 and paragraphs 1 and 2(l) of Schedule 2 shall apply in relation to an order under this section as they apply in relation to an adoption order, except that any entry in the registers of births or the Adopted Children Register which is required to be marked in consequence of the making of an order under this section shall, instead of being marked with the word “Adopted” or “Re-adopted” be marked with the words “Proposed foreign adoption” or “Proposed foreign re-adoption”, as the case may require.
- (4) References in sections 17, 18, 20, 21 and 22 to an adoption order include references to an order under this section.

44 Restriction on removal of children for adoption outside the Island

[P1976/36/56; P1958/5/52 and 57]

- (1) Except under the authority of —
 - (a) an order under section 43,
 - (b) [Repealed]⁸³
 - (c) [Repealed]⁸⁴

it shall not be lawful for any person to take or send a child who is a Commonwealth citizen or a citizen of the Republic of Ireland out of the Island to any place outside the British Islands with a view to the adoption of the child by any person not being a parent or guardian or relative of the child; and any person who takes or sends a child out of the Island to any place in contravention of this subsection, or makes or takes part in any arrangements for transferring the actual custody of a child to any person for that purpose, shall be guilty of an offence and liable on conviction on information to imprisonment for a term not exceeding 12 months or to a fine, or to both.

- (2) In any proceedings under this section, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer shall, upon proof that the officer or the deponent cannot be found in the Island or the United Kingdom, be admissible as evidence of the matters stated therein, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.
- (3) A person shall be deemed to take part in arrangements for transferring the actual custody of a child to a person for the purpose referred to in subsection (1) if —
 - (a) he facilitates the placing of the child in the actual custody of that person; or
 - (b) he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, and if he causes another person to do so.

44A Restriction on bringing children into the Island for adoption

- (1) A person habitually resident in the British Islands who at any time brings into the Island for the purpose of adoption a child who is habitually resident outside those Islands is guilty of an offence unless such requirements as may be prescribed are satisfied either —
 - (a) before that time; or
 - (b) within such period beginning with that time as may be so prescribed.
- (2) Subsection (1) does not apply where the child is brought into the Island for the purpose of adoption by a parent, guardian or relative.
- (3) A person guilty of an offence under this section is liable on summary conviction to custody for a term not exceeding 3 months, or a fine not exceeding £5,000, or both.
- (4) Proceedings for an offence under this section may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this subsection more than 3 years after the commission of the offence.⁸⁵

45 Prohibition on certain payments

[P1976/36/57; P1958/5/50; P1977/45/Sch 12]

- (1) Subject to the provisions of this section, it shall not be lawful to make or give to any person any payment or reward for or in consideration of —
 - (a) the adoption by that person of a child; or
 - (b) the grant by that person of any agreement or consent required in connection with the adoption of a child; or
 - (c) the transfer by that person of the actual custody of a child with a view to the adoption of the child; or
 - (d) the making by that person of any arrangements for the adoption of a child.
- (2) Any person who makes or gives, or agrees or offers to make or give, any payment or reward prohibited by this section, or who receives or agrees to receive or attempts to obtain any such payment or reward, shall be guilty of an offence and liable on conviction on information to imprisonment for a term not exceeding 12 months or to a fine, or to both.⁸⁶
- (3) This section does not apply to any payment made to an adoption agency by a parent or guardian of a child or by a person who adopts or proposes to adopt a child, being a payment in respect of expenses reasonably incurred by the agency in connection with the adoption of the child, or to any payment or reward authorised by the Court.

- (4) This section does not apply to —
- (a) any payment made by an adoption agency to a person who has applied, or proposes to apply, to the Court for an adoption order or an order under section 43, being a payment of or towards any legal or medical expenses incurred, or to be incurred, by that person in connection with the application; or⁸⁷
 - (b) any payment made by an adoption agency to another adoption agency in consideration of the placing of a child in the custody of any person with a view to the child's adoption; or
 - (c) any payment by an adoption agency to a voluntary organisation for the time being approved for the purposes of this paragraph by the Department as a fee for the services of that organisation in putting that agency into contact with another adoption agency with a view to the making of arrangements between the adoption agencies for the adoption of a child.

In paragraph (c), “voluntary organisation” means a body other than a Board of Tynwald, a Statutory Board or a local authority, the activities of which are not carried on for profit.

46 Restriction on advertisements

[P1976/36/58; P1958/5/51]

- (1) It shall not be lawful for any advertisement to be published indicating —
- (a) that the parent or guardian of a child desires to cause a child to be adopted; or
 - (b) that a person desires to adopt a child; or
 - (c) that any person (not being an adoption agency) is willing to make arrangements for the adoption of a child.
- (2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

47 Effect of determination and orders made overseas in adoption proceedings

[P1976/36/59; P1958/5/5(1); P1964/57/1(5); 1974/11/5]

- (1) Where —
- (a) an authority of a Convention country (other than the Island) having power under the law of that country —
 - (i) to authorise, or review the authorisation of, a Convention adoption; or
 - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order; or

- (b) an authority of the United Kingdom, the Channel Islands or any colony having power under the law of that territory –
 - (i) to authorise, or review the authorisation of, a Convention adoption or an adoption effected in that territory; or
 - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order,

makes a determination in the exercise of that power, then, subject to section 41 and any subsequent determination having effect under this subsection, the determination shall have effect in the Island for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination as the case may be.⁸⁸
- (2) Sections 1(3) and (4) and 37 apply in relation to a child who is the subject of an order which is similar to an order under section 43 and is made (whether before or after this Act has effect) in any part of the United Kingdom or any of the Channel Islands, as they apply in relation to a child who is the subject of an adoption order.

48 Evidence of adoption in UK and Channel Islands

[P1976/36/60]

Any document relating to adoption which is receivable as evidence of any matter in any part of the United Kingdom or any of the Channel Islands shall also be so receivable in the Island.

49 Evidence of agreement and consent

[P1976/36/61; P1975/72/102]

- (1) Any agreement or consent which is required by this Act to be given to the making of an order or application for an order may be given in writing, and, if the document signifying the agreement or consent is witnessed in accordance with rules, it shall be admissible in evidence without further proof of the signature of the person by whom it was executed.⁸⁹
- (2) A document signifying such agreement or consent which purports to be witnessed in accordance with rules shall be presumed to be so witnessed, and to have been executed and witnessed on the date and at the place specified in the document, unless the contrary is proved.

49A Declarations as to adoptions effected overseas

[P1986/55/57]

- (1) Any person whose status as an adopted child of any person depends on whether he has been adopted by that person by either –
 - (a) a Convention adoption or an overseas adoption, or⁹⁰

- (b) an adoption recognised by the law of the Island and effected under the law of any country outside the British Islands,
- may apply to the Court for one (or for one or, in the alternative, the other) of the declarations mentioned in subsection (2).
- (2) The said declarations are —
- (a) a declaration that the applicant is for the purposes of section 29 the adopted child of that person;
- (b) a declaration that the applicant is not for the purposes of that section the adopted child of that person.
- (3) The Court shall have jurisdiction to entertain an application under subsection (1) if, and only if, the applicant —
- (a) is domiciled in the Island on the date of the application, or
- (b) has been habitually resident in the Island throughout the period of one year ending with that date.
- (4) The following provisions of the *Matrimonial Proceedings Act 2003* —
- (a) section 20 (general provisions as to declarations),
- (b) section 22(2) to (5) (intervention by Attorney General), and
- (c) section 136 (polygamous marriages) where the proceedings involve a determination as to the validity of a marriage,
- apply to proceedings under this section with the substitution, for references to section 19 or Part 1 of that Act, of references to this section.⁹¹

50 Proceedings in private

[P1976/36/64(a); P1975/72/21; P1978/22/73(2)]

Subject to section 49A(4), proceedings in the Court under this Act may be disposed of in chambers.⁹²

51 Guardians *ad litem*

[P1958/5/9(5)]

For the purpose of any application for an adoption order or an order under section 43 the Court shall, subject to rules, appoint some person to act as guardian *ad litem* of the child upon the hearing of the application, with the duty of safeguarding the interests of the child before the Court.

52 Rules of procedure

[P1976/36/66; P1958/5/9]

- (1) Rules in regard to any matter to be prescribed under this Act and dealing generally with all matters of procedure and incidental matters arising out of this Act and for carrying this Act into effect shall be made by the Deemsters.

- (2) Rules shall require every person who can be found and whose agreement or consent to the making of an adoption order is required under this Act to be notified of a date and place where he will be heard on the application for the order and of the fact that, unless he wishes or the Court requires, he need not attend.
- (3) In the case of an application under section 43, rules shall require every parent and guardian of the child who can be found to be notified as aforesaid.
- (4) This section does not apply in relation to sections 22 to 27.

53 Orders, rules and regulations

- (1) No order (other than an order of the Court) or regulation made under this Act shall have effect unless it is approved by Tynwald.⁹³
- (2) Rules under this Act shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the rules are laid or at the next following sitting resolves that they shall be annulled, they shall cease to have effect.⁹⁴

54 Offences by bodies corporate

[P1968/36/68; P1958/5/54(1)]

Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of, any director, manager, member of the committee, secretary or other officer of the body, he as well as the body shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

55 Service of notices, etc

[P1976/36/69; P1958/5/55]

Any notice or information required to be given under this Act may be given by post.

56 [Repealed]⁹⁵

57 Internal law of a country

[P1976/36/71; P1968/53/10 and 11; 1974/11/10 and 11]

- (1) In this Act “**internal law**” in relation to any country means the law applicable in a case where no question arises as to the law in force in any other country.
- (2) In any case where the internal law of a country falls to be ascertained for the purposes of this Act by any court and there are in force in that country two or more systems of internal law, the relevant system shall be

ascertained in accordance with any rule in force throughout that country indicating which of the systems is relevant in the case in question or, if there is no such rule, shall be the system appearing to that court to be most closely connected with the case.

58 Interpretation

[P1976/36/72]

(1) In this Act, unless the context otherwise requires —

“**adoption agency**” means the Department or an approved adoption society;⁹⁶

“**adoption order**” means an order under section 1(1);

“**adoption society**” means a body of persons whose functions consist of or include the making of arrangements for the adoption of children and, where the principal office of that society is situated outside the Island, includes the authorised representative of that society in the Island;

“**approved adoption society**” means an adoption society designated by an order under section 14(2);

“**authorised officer**” means a person authorised by the Department to perform the functions conferred on an authorised officer by Part II;⁹⁷

“**the Board**” [Repealed]⁹⁸

“**the Board of Education**” [Repealed]⁹⁹

“**body of persons**” means any body of persons, whether incorporated or unincorporated;

“**British adoption order**” means an adoption order or any provision for the adoption of a child effected under the law of any British territory outside the Island;

“**British territory**” means, for the purposes of any provision of this Act, any of the following countries, that is to say, the Island, the United Kingdom, the Channel Islands and a colony, being a country designated for the purposes of that provision by order of the Governor or, if no country is so designated, any of those countries;

“**child**”, except where used to express a relationship, means a person who has not attained the age of 18 years;

“**the Convention**” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;¹⁰⁰

“**Convention adoption**” means an adoption effected under the law of a Convention country outside the British Islands, and certified in pursuance of Article 23(1) of the Convention;¹⁰¹

“**Convention adoption order**” means an adoption order made in accordance with section 6;¹⁰²

“**Convention country**” means any country or territory in which the Convention is in force;¹⁰³

“**couple**” means —

- (a) a married couple, or
- (b) two people who are civil partners of each other, or
- (c) two people (whether of different sexes or the same sex) living as partners in an enduring family relationship;¹⁰⁴

“**the Court**” means the High Court;

“**the Department**” means the Department of Social Care;¹⁰⁵

“**existing**”, in relation to an enactment or other instrument, means one passed or made at any time before the commencement of this Act;

“**guardian**” means —

- (a) a person appointed by deed or will in accordance with the provisions of the *Guardianship of Infants Act 1953* or by a court of competent jurisdiction to be the guardian of the child; and
- (b) in the case of a child who is not a marital child within the meaning of the *Family Law Act 1991*, includes the father where he has parental responsibility for the child for the purposes of that Act.¹⁰⁶

“**internal law**” has the meaning assigned to it by section 57;

“**National**” means, for the purposes of any provision of this Act, a British citizen, British Dependent Territories citizen or a British Overseas citizen satisfying such conditions, if any, as the Governor may by order specify for the purpose of that provision;

“**notice**” means a notice in writing;

“**overseas adoption**” has the meaning assigned to it by subsection (2);

“**parental responsibility**” has the meaning given by section 2 of the *Children and Young Persons Act 2001*;¹⁰⁷

“**place of safety**” [Repealed]¹⁰⁸

“**prescribed**” means prescribed by rules;

“**regulated adoption**” [Repealed]¹⁰⁹

“**relative**” in relation to a child means a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by marriage or civil partnership and includes, where the child is illegitimate, the father of the child and any person who would be a relative within the meaning of this

definition if the child were the legitimate child of his mother and father;¹¹⁰

“**rules**” means rules made under section 52(l);

“**specified order**” [Repealed]¹¹¹

(1A) The text of the Convention (so far as material) is set out in Schedule 2A.¹¹²

(2) In this Act, “**overseas adoption**” means an adoption of such a description as the Governor may by order specify, being a description of adoptions of children appearing to him to be effected under the law of any country outside the British Islands; and an order under this subsection may contain provision as to the manner in which evidence of an overseas adoption may be given.¹¹³

(3) For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a child if he enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected, or is intended to be effected, in the Island or elsewhere, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, and if he causes another person to do so.

(4) In this Act, in relation to the proposed adoption of a child resident outside the British Islands, references to arrangements for the adoption of a child include references to arrangements for an assessment for the purpose of indicating whether a person is suitable to adopt a child or not.¹¹⁴

(5) In this Act, in relation to —

(a) an adoption proposed to be effected by a Convention adoption order; or

(b) an adoption of a child habitually resident outside the British Islands which is proposed to be effected by an adoption order other than a Convention adoption order,

references to a child placed with any persons by an adoption agency include references to a child who, in pursuance of arrangements made by such an agency, has been adopted by or placed with those persons under the law of a country or territory outside the British Islands.¹¹⁵

59 Transitional provisions and amendments

(1) The transitional provisions contained in Schedule 3 shall have effect.

(2) The enactments specified in Schedule 4 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

- (3) [Repealed]¹¹⁶

60 Expenses

Any expenses incurred by the Department under or by virtue of this Act shall be defrayed out of money provided by Tynwald.¹¹⁷

61 Short title and commencement

- (1) This Act may be cited as the Adoption Act 1984.
- (2) This Act shall come into force on such date as the Governor in Council may by order appoint, and different dates may be so appointed for different provisions.¹¹⁸

SCHEDULE 1¹¹⁹**SCHEDULE 2****REGISTRATION OF ADOPTIONS**

Section 38 [P1976/36/Sch 1; 1974/11/8]

Registration of adoption orders

1. (1) Every adoption order shall contain a direction to the Chief Registrar to make in the Adopted Children Register an entry in such form as may be prescribed by regulations made by the Clerk of the Rolls.

(2) [Repealed]¹²⁰

(3) Where on an application to the Court for an adoption order in respect of a child (not being a child who has previously been the subject of an adoption order made by the Court under this Act or any enactment at the time in force) there is proved to the satisfaction of the Court the identity of the child with a child to whom an entry in the Registers of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Chief Registrar to cause the entry in the Registers of Births to be marked with the word "Adopted".

(4) Where an adoption order is made in respect of a child who has previously been the subject of an adoption order made by the Court under this Act or any enactment at the time in force, the order shall contain a direction to the Chief Registrar to cause the previous entry in the Adopted Children Register to be marked with the word "Re-adopted".

Registration of adoptions in United Kingdom and Channel Islands

2. (1) Where the Chief Registrar is notified by the authority maintaining a register of adoptions in any part of the United Kingdom or any of the Channel Islands that an order has been made in that country authorising the adoption of a child to whom an entry in the Registers of Births or the Adopted Children Register relates, he shall cause the entry to be marked with the word "Adopted" or "Re-adopted", as the case may require, followed by the name, in brackets, of the country in which the order was made.

(2) Where, after an entry has been so marked, the Chief Registrar is notified as aforesaid that the order has been quashed, that an appeal against the order has been allowed or that the order has been revoked, he shall cause the marking to be cancelled; and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this sub-paragraph, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(3) Sub-paragraphs (1) and (2) shall apply in relation to orders corresponding to orders under section 43 as they apply in relation to orders

authorising the adoption of a child; but any marking of an entry required by virtue of this sub-paragraph shall consist of the words “proposed foreign adoption” or as the case may require, “proposed foreign re-adoption” followed by the name in brackets of the country in which the order was made.

(4) Without prejudice to sub-paragraphs (1) and (2), where, after an entry in the Registers of Births has been marked in accordance with this paragraph, the birth is re-registered under section 17 of the *Civil Registration Act 1984*, the entry made on the registration shall be marked in the like manner.

Registration of foreign adoptions

3. (1) If the Chief Registrar 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 —

- (a) he shall make the entry accordingly, and
- (b) if he is also satisfied that an entry in the Registers of Births relates to the child, he shall secure that the entry in those Registers is marked “Adopted” or “Re-adopted”, as the case may be, followed by the name in brackets of the country in which the adoption was effected.

(2) An entry made in the Adopted Children Register by virtue of this paragraph shall be made in the prescribed form.

(3) An application under this paragraph must be made, in the prescribed manner, by a prescribed person and give the prescribed particulars.

(4) In this paragraph —

“registrable foreign adoption” means a Convention adoption or overseas adoption which satisfies prescribed requirements;

“prescribed” means prescribed by regulations made by the Clerk of the Rolls.¹²¹

Amendment of orders and rectification of Registers

4. (1) The Court may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein, and may —

- (a) if satisfied on the application of the adopter or the adopted person that within one year beginning with the date of the order any new name has been given to the adopted person (whether in baptism or otherwise), or taken by him, either in lieu 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 adding that name in those particulars, as the case may require;

- (b) if satisfied on the application of any person concerned that a direction for the marking of an entry in the Registers of Births or the Adopted Children Register included in the order in pursuance of paragraph 1(3) or (4) was wrongly so included, revoke that direction.
- (2) Where an adoption order is amended or a direction revoked under sub-paragraph (1), the Chief Registrar shall as the case may require —
- (a) cause the entry in the Adopted Children Register to be amended accordingly; or
 - (b) cause the marking of the entry in the Registers of Births or the Adopted Children Register to be cancelled.
- (3) Where an adoption order is quashed or an appeal against an adoption order allowed by the Court, the Chief Registrar shall cancel any entry in the Adopted Children Register, and any marking of an entry in that Register, or the Registers of Births as the case may be, which was effected in pursuance of the order.
- (4) 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 38 shall be a copy of the entry as amended, without the reproduction of any note or marking relating to the amendment or of any matter cancelled pursuant thereto; and a copy or extract of an entry in any register, being an entry the marking of which has been cancelled, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.
- (5) If the Chief Registrar is satisfied —
- (a) that a Convention adoption, a Convention adoption order or an overseas adoption has ceased to have effect, whether on annulment or otherwise; or¹²²
 - (b) that any entry or mark was erroneously made in pursuance of paragraph 3 in any register mentioned in that paragraph,

he may cause such alterations to be made in any such register as he considers are required in consequence of the cesser or to correct the error; and where an entry in such a register is amended in pursuance of this sub-paragraph, any copy or extract of the entry shall be deemed to be accurate if and only if 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 section 40, where, after an entry in the registers of births has been marked with the word “Adopted”, the birth is re-registered under section 17 of the *Civil Registration Act 1984*, the entry made on the re-registration shall be marked in the like manner.

(2) Without prejudice to paragraph 4(5), where an entry in the Registers of Births is marked in pursuance of paragraph 3 and the birth in question is subsequently

re-registered under the said section 17 the entry made on re-registration shall be marked in the like manner.

Cancellations in Registers on legitimation

6. Where an adoption order, other than a Convention adoption order, is revoked under section 40(1) or (2), the Chief Registrar shall cause to be cancelled —

- (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 him in the Registers of Births;

and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this section, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

Interpretation

7. In this Schedule “the Registers of Births” means the registers of births kept under the *Civil Registration Act 1984* or any enactment repealed by that Act.

SCHEDULE 2A¹²³**CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION**

Section 58(1A)

The States signatory to the present Convention.

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the United Nations Convention on the Rights of the Child, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions —

CHAPTER I - SCOPE OF THE CONVENTION*Article 1*

The objects of the present Convention are —

- (a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law;
- (b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- (c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

1. The Convention shall apply where a child habitually resident in one Contracting State (“the State of origin”) has been, is being, or is to be moved to another Contracting State (“the receiving State”) either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.
2. The Convention covers only adoptions which create a permanent parent-child relationship.

Article 3

The Convention ceases to apply if the agreements mentioned in Article 17, subparagraph (c), have not been given before the child attains the age of eighteen years.

CHAPTER II - REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

Article 4

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin —

- (a) have established that the child is adoptable;
- (b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child’s best interests;
- (c) have ensured that —
 - (i) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
 - (ii) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
 - (iii) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
 - (iv) the consent of the mother, where required, has been given only after the birth of the child; and
- (d) have ensured, having regard to the age and degree of maturity of the child, that —

- (i) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,
- (ii) consideration has been given to the child's wishes and opinions,
- (iii) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
- (iv) such consent has not been induced by payment or compensation of any kind.

Article 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State —

- (a) have determined that the prospective adoptive parents are eligible and suited to adopt;
- (b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and
- (c) have determined that the child is or will be authorised to enter and reside permanently in that State.

CHAPTER III - CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 6

1. A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.
2. Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

1. Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.
2. They shall take directly all appropriate measures to —

- (a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
- (b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 8

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 9

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to —

- (a) collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- (b) facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- (c) promote the development of adoption counselling and post-adoption services in their States;
- (d) provide each other with general evaluation reports about experience with intercountry adoption;
- (e) reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall —

- (a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- (b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- (c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 12

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities of both States have authorised it to do so.

Article 13

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

CHAPTER IV - PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

Article 14

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

Article 15

1. If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.

2. It shall transmit the report to the Central Authority of the State of origin.

Article 16

1. If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall —

- (a) prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
- (b) give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;
- (c) ensure that consents have been obtained in accordance with Article 4; and

- (d) determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

2. It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

Article 17

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if –

- (a) the Central Authority of that State has ensured that the prospective adoptive parents agree;
- (b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;
- (c) the Central Authorities of both States have agreed that the adoption may proceed; and
- (d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving State.

Article 18

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

Article 19

1. The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.
2. The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.
3. If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

Article 20

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 21

1. Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular —

- (a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;
- (b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;
- (c) as a last resort, to arrange the return of the child, if his or her interests so require.

2. Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

Article 22

1. The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.

2. Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who —

- (a) meet the requirements of integrity, professional competence, experience and accountability of that State; and
- (b) are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.

3. A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.

4. Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 1.

5. Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance with paragraph 1.

CHAPTER V - RECOGNITION AND EFFECTS OF THE ADOPTION

Article 23

1. An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognised by operation of law in the other Contracting States. The certificate shall specify when and by whom the agreements under Article 17, sub-paragraph c, were given.

2. Each Contracting State shall, at the time of signature, ratification, acceptance, approval or accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

Article 24

The recognition of an adoption may be refused in a contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Article 25

Any Contracting State may declare to the depositary of the convention that it will not be bound under this Convention to recognise adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

Article 26

1. The recognition of an adoption includes recognition of –
- (a) the legal parent-child relationship between the child and his or her adoptive parents;
 - (b) parental responsibility of the adoptive parents for the child;
 - (c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

2. In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognised, rights equivalent to those resulting from adoptions having this effect in each such State.

3. The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognises the adoption.

Article 27

1. Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognises the adoption under the Convention, be converted into an adoption having such an effect —

- (a) if the law of the receiving State so permits; and
- (b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

2. Article 23 applies to the decision converting the adoption.

CHAPTER VI - GENERAL PROVISIONS

Article 28

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

Article 29

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs a to c, and Article 5, sub-paragraph a, have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

Article 30

1. The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.

2. They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

Article 31

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 32

1. No one shall derive improper financial or other gain from an activity related to an intercountry adoption.
2. Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.
3. The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 33

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

Article 34

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

Article 35

The competent authorities of the contracting States shall act expeditiously in the process of adoption.

Article 36

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units —

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;

- (c) any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorised to act in the relevant territorial unit;
- (d) any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant territorial unit.

Article 37

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 38

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

Article 39

1. The convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States parties to such instrument.

2. Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

Article 40

No reservation to the Convention shall be permitted.

Article 41

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

Article 42

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.

SCHEDULE 3

TRANSITIONAL PROVISIONS AND SAVINGS

Section 59(1) [P1976/36/Sch 2]

General

1. In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision of this Act it shall not be invalidated by the repeal but shall have effect as if done under that provision.

2. Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

3. Nothing in this Act shall affect the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.

4. Any reference in any document, whether express or implied, to any enactment repealed by this Act shall, unless the context otherwise requires, be construed as a reference to the corresponding enactment of this Act.

5. (1) Without prejudice to paragraph 1, an adoption order made under an enactment at any time before this Act comes into force shall not cease to have effect by virtue only of a repeal effected by this Act.

(2) Paragraph 4(1) and (2) of Schedule 2 shall apply in relation to an adoption order made before this Act came into force as if the order had been made under section 1, but as if, in sub-paragraph (1)(b) of the said paragraph 4, there were substituted for the reference to paragraph 1(3) and (4) a reference —

- (a) in the case of an order under the *Adoption of Children Act 1928*, to section 13(3) of that Act;
- (b) in the case of an order under the *Adoption Act 1953*, to section 15(3) and (4) of that Act;
- (c) in the case of an order under the *Adoption Act 1962*, to section 18(4) and (5) of that Act.

(3) The power of the court under the said paragraph 4(1) to amend an order includes power, in relation to an order made before the 19th June 1962, to make on the application of the adopter or adopted person any such amendment of the particulars contained in the order as appears to be required to bring the order into the form in which it would have been made if paragraph 1 of Schedule 2 had applied to the order.

(4) Section 40(1) and paragraph 6 of Schedule 2 shall apply in relation to an adoption order made under an enactment at any time before this Act came into force as they apply in relation to an adoption order made under this Act.

Rights relating to property

6. (1) Section 29 —
- (a) does not apply to an existing instrument or enactment in so far as it contains a disposition of property; and
 - (b) does not apply to any Act (other than a private Act settling property) in its application to any disposition of property in an existing instrument or enactment.
- (2) Sections 14 and 15 of the *Adoption Act 1962*, and provisions containing references to those sections shall continue to apply in relation to dispositions of property effected by existing instruments notwithstanding the repeal of those sections, and such provisions, by this Act.
- (3) Section 34 shall apply in relation to this paragraph as if it were contained in Part III.
7. [Repealed]¹²⁴

Protected children

8. A child who immediately before the commencement of section 22 is a protected child within the meaning of section 24 of the *Adoption Act 1962* shall be deemed to be a protected child for the purposes of Part II.
9. [Repealed]¹²⁵

Registers of adoptions

10. Any register or index to a register kept under the *Adoption Act 1962*, or any register or index deemed to be part of such a register, shall be deemed to be part of the register kept under section 38.

Saving for Interpretation Act 1976

11. It Nothing in this Act shall prejudice or affect the provisions of sections 15 and 16 of the *Interpretation Act 1976* (effect of repeals and substituting provisions).

SCHEDULE 4
CONSEQUENTIAL AMENDMENTS

Section 59(2)

[Sch 4 amended by Family Law Act 1991 Sch 6 and by Children and Young Persons Act 2001 Sch 13, and amends the following Order —

Social Security Legislation (Application) (No. 3) Order 1975 (GC154/75).]

SCHEDULE 5¹²⁶

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

-
- ¹ Subs (1) substituted by Family Law Act 1991 s 29.
- ² Subs (2) substituted by Family Law Act 1991 s 29.
- ³ Para (b) amended by Children and Young Persons Act 2001 Sch 12.
- ⁴ Subs (3) substituted by Family Law Act 1991 s 29.
- ⁵ Subs (4) amended by Family Law Act 1991 Sch 5.
- ⁶ Subs (5A) inserted by Civil Partnership Act 2011 Sch 8.
- ⁷ Subs (3) amended by Civil Partnership Act 2011 Sch 8.
- ⁸ Para (b) substituted by Health and Social Security Act 1986 Sch 2 and amended by SD359/11.
- ⁹ Subs (4) added by Adoption (Amendment) Act 2001 s 6.
- ¹⁰ S 3 heading amended by Civil Partnership Act 2011 Sch 8.
- ¹¹ Subs (1) amended by Family Law Act 1991 Sch 6 and by Civil Partnership Act 2011 Sch 8.
- ¹² Subs (2) amended by Civil Partnership Act 2011 Sch 8. Para (b) amended by Adoption (Amendment) Act 2001 Sch 2.
- ¹³ S 3 amended by Civil Partnership Act 2011 Sch 8. Subs (3) repealed by Family Law Act 1991 Sch 6.
- ¹⁴ Subs (1) substituted by Civil Partnership Act 2011 Sch 8.
- ¹⁵ Para (b) amended by Adoption (Amendment) Act 2001 Sch 2.
- ¹⁶ Subs (4) repealed by Family Law Act 1991 Sch 6.
- ¹⁷ Subs (2A) inserted by Adoption (Amendment) Act 2001 s 10. Para (d) added by Administration of Justice Act 2008 Sch 2.
- ¹⁸ Subs (3) repealed by Adoption (Amendment) Act 2001 Schs 2 and 3.

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- ¹⁹ S 6 substituted by Adoption (Amendment) Act 2001 s 1.
- ²⁰ S 6A inserted by Adoption (Amendment) Act 2001 s 1.
- ²¹ S 6B inserted by Adoption (Amendment) Act 2001 s 1.
- ²² Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- ²³ Subs (2) amended by Health and Social Security Act 1986 Sch 2.
- ²⁴ Subs (3) amended by Health and Social Security Act 1986 Sch 2.
- ²⁵ S 11 repealed by Family Law Act 1991 Sch 6.
- ²⁶ Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- ²⁷ Subs (2) amended by Health and Social Security Act 1986 Sch 2.
- ²⁸ Subs (2A) inserted by Adoption (Amendment) Act 2001 s 5.
- ²⁹ Subs (2B) inserted by Adoption (Amendment) Act 2001 s 5.
- ³⁰ Subs (3) amended by Health and Social Security Act 1986 Sch 2.
- ³¹ Subs (5) amended by Treasury Act 1985 Sch 2 and by Health and Social Security Act 1986 Sch 2.
- ³² S 15 amended by Health and Social Security Act 1986 Sch 2.
- ³³ Subs (4) amended by Statute Law Revision Act 1997 Sch 1.
- ³⁴ Para (b) amended by Health and Social Security Act 1986 Sch 2.
- ³⁵ Subs (2) amended by Health and Social Security Act 1986 Sch 2.
- ³⁶ Subs (3) amended by Adoption (Amendment) Act 2001 Sch 2.
- ³⁷ Subs (4) repealed by Adoption (Amendment) Act 2001 Schs 2 and 3.
- ³⁸ Subs (5) amended by Health and Social Security Act 1986 Sch 2.
- ³⁹ Subs (7) amended by Health and Social Security Act 1986 Sch 2.
- ⁴⁰ Subs (1) amended by Health and Social Security Act 1986 Sch 2 and by Adoption (Amendment) Act 2001 Sch 2.
- ⁴¹ Subs (2) amended by Adoption (Amendment) Act 2001 Sch 2.
- ⁴² Subs (3) amended by Children and Young Persons Act 2001 Sch 12.
- ⁴³ Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- ⁴⁴ Para (a) amended by Statute Law Revision Act 1997 Sch 2.
- ⁴⁵ Para (b) amended by Adoption (Amendment) Act 2001 Sch 2.
- ⁴⁶ Para (c) substituted by Nursing and Residential Homes Act 1988 Sch 2 and amended by Adoption (Amendment) Act 2001 Sch 2.
- ⁴⁷ Para (a) amended by Children and Young Persons Act 2001 Sch 12.
- ⁴⁸ Para (b) amended by Health and Social Security Act 1986 Sch 2.
- ⁴⁹ Subpara (ii) substituted by Family Law Act 1991 Sch 5 and amended by Children and Young Persons Act 2001 Sch 12.
- ⁵⁰ Subparas (iii) and (iv) repealed by Family Law Act 1991 Sch 5.
- ⁵¹ Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- ⁵² Subs (2) substituted by Children and Young Persons Act 2001 Sch 12.
- ⁵³ S 24 repealed by Children and Young Persons Act 2001 Sch 13.
- ⁵⁴ Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- ⁵⁵ Subs (2) amended by Health and Social Security Act 1986 Sch 2.
- ⁵⁶ Subs (1) repealed by Children and Young Persons Act 2001 Sch 13.

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- ⁵⁷ Subss (3) and (4) repealed by Children and Young Persons Act 2001 Sch 13.
- ⁵⁸ Para (cc) inserted by Adoption (Amendment) Act 2001 s 2.
- ⁵⁹ Para (a) amended by Civil Partnership Act 2011 Sch 8.
- ⁶⁰ Para (b) amended by Civil Partnership Act 2011 Sch 8.
- ⁶¹ Subs (2) amended by Adoption (Amendment) Act 2001 s 2.
- ⁶² Subs (3A) inserted by Adoption (Amendment) Act 2001 s 2.
- ⁶³ Subs (3B) inserted by Adoption (Amendment) Act 2001 s 2.
- ⁶⁴ Subs (1) amended by Sexual Offences Act 1992 Sch 3 and by Civil Partnership Act 2011 Sch 8.
- ⁶⁵ Para (d) amended by Family Law Act 1991 Sch 5.
- ⁶⁶ Subss (3) to (5) repealed by Family Law Act 1991 Sch 6.
- ⁶⁷ Subs (1) amended by Adoption (Amendment) Act 2001 s 7.
- ⁶⁸ Subs (3) amended by Marriage and Civil Registration (Amendment) Act 2011 Sch 3.
- ⁶⁹ Subs (2) amended by Civil Partnership Act 2011 Sch 8.
- ⁷⁰ Subs (3) amended by Health and Social Security Act 1986 Sch 2.
- ⁷¹ Para (a) amended by Health and Social Security Act 1986 Sch 2.
- ⁷² Subs (5) amended by Health and Social Security Act 1986 Sch 2.
- ⁷³ Subs (6) amended by Health and Social Security Act 1986 Sch 2.
- ⁷⁴ Subs (6A) inserted by Statute Law Revision Act 1992 Sch 1.
- ⁷⁵ Subs (3) repealed by Adoption (Amendment) Act 2001 Sch 2.
- ⁷⁶ Subs (1) substituted by Adoption (Amendment) Act 2001 s 3.
- ⁷⁷ Subs (4) amended by Adoption (Amendment) Act 2001 s 3 and Sch 3.
- ⁷⁸ Subs (1) amended by Adoption (Amendment) Act 2001 Sch 3.
- ⁷⁹ Subs (2) amended by Adoption (Amendment) Act 2001 Sch 3.
- ⁸⁰ Definition of “relevant time” repealed by Adoption (Amendment) Act 2001 s 3 and Sch 3.
- ⁸¹ Definition of “specified provisions” repealed by Adoption (Amendment) Act 2001 s 3 and Sch 3.
- ⁸² Subs (1) amended by Children and Young Persons Act 2001 Sch 12.
- ⁸³ Para (b) repealed by Statute Law Revision Act 1997 Sch 2.
- ⁸⁴ Para (c) repealed by Children and Young Persons Act 2001 Sch 13.
- ⁸⁵ S 44A inserted by Adoption (Amendment) Act 2001 s 9.
- ⁸⁶ Subs (2) amended by Children and Young Persons Act 2001 Sch 13.
- ⁸⁷ Para (a) amended by Health and Social Security Act 1986 s 5.
- ⁸⁸ Subs (1) substituted by Adoption (Amendment) Act 2001 s 3.
- ⁸⁹ Subs (1) amended by Adoption (Amendment) Act 2001 Sch 3.
- ⁹⁰ Para (a) substituted by Adoption (Amendment) Act 2001 Sch 2.
- ⁹¹ S 49A inserted by Family Law Act 1991 s 18. Subs (4) substituted by Matrimonial Proceedings Act 2003 Sch 5.
- ⁹² S 50 amended by Family Law Act 1991 Sch 5.
- ⁹³ Subs (1) amended by Administration of Justice Act 2008 s 30(5)(a) and (b).

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- ⁹⁴ S 53 amended by Administration of Justice Act 2008 s 30(5)(a). Subs (2) added by Administration of Justice Act 2008 s 30(5)(c).
- ⁹⁵ S 56 repealed by Adoption (Amendment) Act 2001 Schs 2 and 3.
- ⁹⁶ Definition of “adoption agency” amended by Health and Social Security Act 1986 Sch 2.
- ⁹⁷ Definition of “authorised officer” amended by Health and Social Security Act 1986 Sch 2.
- ⁹⁸ Definition of “the Board” repealed by Health and Social Security Act 1986 Sch 2.
- ⁹⁹ Definition of “the Board of Education” repealed by GC140/90.
- ¹⁰⁰ Definition of “the Convention” substituted by Adoption (Amendment) Act 2001 s 4.
- ¹⁰¹ Definition of “Convention adoption” inserted by Adoption (Amendment) Act 2001 s 4.
- ¹⁰² Definition of “Convention adoption order” substituted by Adoption (Amendment) Act 2001 s 4.
- ¹⁰³ Definition of “Convention country” substituted by Adoption (Amendment) Act 2001 s 4.
- ¹⁰⁴ Definition of “couple” inserted by Civil Partnership Act 2011 Sch 8.
- ¹⁰⁵ Definition of “the Department” inserted by Health and Social Security Act 1986 Sch 2 and amended by SD155/10 Sch 6.
- ¹⁰⁶ Para (b) substituted by Family Law Act 1991 Sch 5.
- ¹⁰⁷ Definition of “parental responsibility”, previously “the parental rights and duties”, substituted by Children and Young Persons Act 2001 Sch 12.
- ¹⁰⁸ Definition of “place of safety” repealed by Children and Young Persons Act 2001 Sch 13.
- ¹⁰⁹ Definition of “regulated adoption” repealed by Adoption (Amendment) Act 2001 Sch 3.
- ¹¹⁰ Definition of “relative” amended by Civil Partnership Act 2011 Sch 8.
- ¹¹¹ Definition of “specified order” repealed by Adoption (Amendment) Act 2001 Sch 3.
- ¹¹² Subs (1A) inserted by Adoption (Amendment) Act 2001 s 4.
- ¹¹³ Subs (2) amended by Adoption (Amendment) Act 2001 Sch 2.
- ¹¹⁴ Subs (4) added by Adoption (Amendment) Act 2001 s 8.
- ¹¹⁵ Subs (5) added by Adoption (Amendment) Act 2001 s 8.
- ¹¹⁶ Subs (3) repealed by Statute Law Revision Act 1992 Sch 2.
- ¹¹⁷ S 60 amended by Health and Social Security Act 1986 Sch 2 and by Statute Law Revision Act 1997 Sch 2.
- ¹¹⁸ ADO (whole Act, except ss 4(2)(b), 5(3), 6, 40(3), 41, 42, 47(1), 56, Sch 2 para 1(2)) 1/1/1986 (GC277/85);(remaining extant provisions - ss 4(2)(b), 6, 41, 42, 47(1)) 1/10/2003 (SD166/03).
- ¹¹⁹ Sch 1 repealed by Family Law Act 1991 Sch 6.
- ¹²⁰ Subpara (2) repealed by Adoption (Amendment) Act 2001 s 7 and Sch 3.
- ¹²¹ Para 3 and cross-heading substituted by Adoption (Amendment) Act 2001 s 7.
- ¹²² Item (a) amended by Adoption (Amendment) Act 2001 s 7.
- ¹²³ Sch 2A inserted by Adoption (Amendment) Act 2001 Sch 1.

¹²⁴ Para 7 repealed by Family Law Act 1991 Sch 6.

¹²⁵ Para 9 repealed by Family Law Act 1991 Sch 6.

¹²⁶ Sch 5 repealed by Statute Law Revision Act 1992 Sch 2.