

# ADOPTION OF CHILDREN ACT 2022

(No. 20 of 2022)

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An Act to repeal and re-enact the Adoption of Children Act 1939 with amendments to provide for the process of the adoption of children and the regulation of practices in the adoption sector and connected matters, and to make related and consequential amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

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PART 1  
PRELIMINARY

**Short title and commencement**

1. This Act is the Adoption of Children Act 2022 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**General interpretation**

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

“adopted child” means an individual (whether below 21 years of age or otherwise) in respect of whom an adoption order has been made;

“adoption application” means an application made under this Act for an adoption order;

“adoption order” means an order under section 23(1);

“adoption proceedings” means the proceedings in court arising from an adoption application, including any appeal against any decision made by the court on the adoption application;

“adoption-related service” means any of the following:

- (a) any service provided by an adoption agency (whether directly or indirectly through one or more intermediaries) in the course of making arrangements for or on behalf of any person for the adoption in Singapore by that person of a child;
- (b) the conduct of a pre-adoption briefing described in section 12;
- (c) the conduct of a disclosure of adoptive status briefing described in section 13;
- (d) the conduct of any assessment by an authorised adoption agency for the purposes of preparing an ASA;

(e) any other service provided by an adoption agency in connection with the adoption or proposed adoption of a child that may be prescribed by the regulations;

“Adoption Suitability Assessment” or “ASA” means an Adoption Suitability Assessment issued by an authorised adoption agency under section 14;

“adoptive parent” means an individual who adopts a child under an adoption order and, in the case of an adoption order made in favour of 2 applicants jointly, means either of the applicants;

“applicant” means an individual who makes an adoption application, whether solely or jointly, and for the purposes of Part 2, includes an individual who intends to make an adoption application; and “applicants” means both applicants in the case of a joint adoption application mentioned in section 4;

“authorised adoption agency” means an adoption agency or a fostering agency that is authorised by the Minister under section 10;

“authorised officer” means an individual who is appointed under section 9 to be an authorised officer for the purposes of this Act;

“child”, if age rather than descendance is relevant, means an individual below 21 years of age;

“child before the court” means the child in respect of whom an adoption application is made;

“child in state care” means a child who is the subject of any of the following orders that is in force:

(a) an order under section 54(1)(b) or 56(2)(a) of the Children and Young Persons Act 1993;

(b) an order under section 56(2)(a) of the Children and Young Persons Act 1993 as applied by section 57 of that Act;



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“court” means the Family Division of the High Court, a Family Court, or any court hearing an appeal against an order or a decision of the Family Division of the High Court or a Family Court, except in sections 48, 51, 66, 69, 70, 72 and 73 where “court” means a court of competent jurisdiction;

“Director-General” means the Director-General of Social Welfare or any public officer or other person authorised under section 3(3) of the Children and Young Persons Act 1993 to perform any of the duties or exercise any powers of the Director-General under that Act;

“father”, in relation to an illegitimate child, means the biological father;

“fostering agency” means a person who enters into an agreement with the Government to provide services in relation to the fostering of children, including overseeing one or more fostering arrangements;

“Guardian-in-Adoption” means the Guardian-in-Adoption appointed under section 8;

“Guardian-in-Adoption’s affidavit” means the affidavit required to be filed by the Guardian-in-Adoption under section 27;

“Home Study Report” or “HSR” means a report —

- (a) applied for by 2 individuals or an individual before the date of commencement of section 11;
- (b) issued before, on or after that date by an adoption agency accredited by the Ministry of Social and Family Development for the purposes of conducting assessments as to the suitability of persons to adopt a child; and
- (c) containing an assessment as to whether the 2 individuals or individual (as the case may be) issued with the report are or is suitable to adopt a child;

“interim order” means an order under section 31;

“parent”, in relation to an illegitimate child, does not include the biological father;

“protector” means any public officer appointed or other person authorised under section 3(3) of the Children and Young Persons Act 1993 to perform any of the duties or exercise any of the powers of a protector under that Act;

“registered medical practitioner” means a medical practitioner registered under the Medical Registration Act 1997, and includes a dentist registered under the Dental Registration Act 1999;

“regulations” means the regulations made under section 75;

“relevant person”, in relation to a child, or a protected person mentioned in Part 5, means any person who —

- (a) is a parent or guardian of the child or protected person;
- (b) has actual custody of the child or protected person; or
- (c) is liable to contribute to the support of the child or protected person;

“repealed Act” means the Adoption of Children Act 1939;

“reward” means any benefit, whether monetary or otherwise.

(2) In this Act, a reference to a valid and favourable HSR is a reference to an HSR —

- (a) containing an assessment by the adoption agency that issued the HSR that the 2 individuals or individual (as the case may be) issued with the HSR are or is suitable to adopt a child, whether unequivocally or subject to the resolution of any one or more issues contained in the HSR; and
- (b) the validity period for which as stated in the HSR (subject to any extension of the period by a duly authorised officer of the Ministry of Social and Family Development) has not expired.

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(3) In this Act —

- (a) a reference to a medical assessment is a reference to an assessment by a registered medical practitioner; and
- (b) a reference to a psychiatric assessment is a reference to an assessment by a medical practitioner who is registered as a psychiatrist in the Register of Specialists under the Medical Registration Act 1997.

(4) For the purposes of this Act, an individual (*A*) is a relative of another individual (*B*) if *A* is the spouse or a former spouse, or a parent or step-parent, father-in-law, mother-in-law, brother or stepbrother, sister or stepsister, child (including an adopted child), stepson, stepdaughter, grandparent or step-grandparent, grandchild or step-grandchild, uncle or step-uncle, aunt or step-aunt, nephew or step-nephew, or niece or step-niece, of *B*.

(5) For the purposes of this Act —

- (a) adoption proceedings arising from an adoption application are concluded when —
  - (i) the court has made an order that finally disposes of the adoption application; and
  - (ii) no application for an appeal against that order, or an application for permission to make such an appeal (if required under the law), has been made after the expiry of the time allowed under the law for the making of such an appeal;
- (b) adoption proceedings arising from an adoption application are pending if the adoption proceedings are not concluded; and
- (c) an interim order is not an order that finally disposes of an adoption application.

### **Meaning of “adoption agency”**

**3.—(1)** For the purposes of this Act, an adoption agency is any person that carries on the business (whether for profit or not) of making arrangements for or on behalf of any other person for the

adoption in Singapore by that other person of a child, but does not include a fostering agency or any other person that may be prescribed by the regulations.

(2) For the purposes of this Act, a person (*A*) carries on the business (whether for profit or not) of making arrangements for or on behalf of another person (*B*) for the adoption by *B* of a child under the Act, whether or not —

- (a) *B* makes an adoption application in respect of the child;
- (b) the arrangements are accompanied by any other service to *B* before or after the conclusion of adoption proceedings arising from an adoption application made by *B* in respect of the child; or
- (c) *A* also carries on the business (whether for profit or not) of providing any other service.

(3) In this section, a reference to the making of arrangements for or on behalf of a person (*A*) for the adoption of a child by *A* includes a reference to any of the following:

- (a) informing *A* about the process of adoption in Singapore, including under the repealed Act;
- (b) informing *A* about the eligibility criteria for an adoption order, or the parenting of an adopted child, including under the repealed Act;
- (c) arranging for *A* to undergo the process for obtaining an ASA;
- (d) conducting an assessment of *A*'s suitability to adopt for the purpose of issuing an ASA to *A*;
- (e) finding a child for whom an adoptive parent is being sought, on behalf of *A*;
- (f) obtaining the agreement of any relevant person of a child to seek an adoptive parent for the child (whether directly or indirectly through one or more intermediaries), with a view to the child's adoption by *A*;

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- (g) transferring (whether directly or indirectly through one or more intermediaries) the physical custody of a child, or the custody or care and control of a child, to *A* with a view to the child's adoption by *A*;
  - (h) obtaining, on behalf of *A*, the consent required under section 26 of any relevant person of a child for the adoption of the child by *A*, whether directly or indirectly through one or more intermediaries;
  - (i) providing any service to *A* after an adoption order in respect of a child has been made in favour of *A* to support *A* in the parenting of the child.

### **Eligibility to make adoption application**

4.—(1) Subject to section 5, an adoption application may only be made by —

- (a) 2 individuals married to each other —
  - (i) in Singapore under the Administration of Muslim Law Act 1966 or the Women's Charter 1961; or
  - (ii) outside Singapore under the law of another country or territory, in circumstances where the marriage is recognised as valid under that law, and the individuals would be taken to be lawfully married under written law in Singapore if the marriage had taken place in Singapore,

where —

- (iii) both the individuals are habitually resident in Singapore; and
  - (iv) either or both the individuals are citizens of Singapore, or both individuals are permanent residents of Singapore; or
- (b) an individual who is —
    - (i) habitually resident in Singapore; and
    - (ii) either a citizen or permanent resident of Singapore.

- (2) An adoption application may only be made —
- (a) jointly by the 2 individuals mentioned in subsection (1)(a);  
or
  - (b) solely by an individual mentioned in subsection (1)(b) who is not an individual mentioned in subsection (1)(a).
- (3) The requirements in subsection (1)(a)(iii) and (iv) and (b) do not apply to any adoption application made, and that is supported by a valid and favourable HSR held, by 2 individuals jointly or by an individual solely.

### **Further provisions on eligibility to adopt a child**

**5.—(1)** Unless subsection (2) applies, the applicants or applicant are not or is not eligible to adopt a child in the following circumstances:

- (a) in the case of an adoption application by 2 applicants jointly —
  - (i) either applicant is below 25 years of age; or
  - (ii) either applicant is less than 21 years older than the child before the court;
- (b) in the case of an adoption application solely by an applicant —
  - (i) the sole applicant is below 25 years of age; or
  - (ii) the sole applicant is less than 21 years older than the child before the court;
- (c) the sole applicant is a male and the child before the court is a female;
- (d) either applicant (in the case of a joint application) or the sole applicant (in the case of a sole application) has been convicted of an offence prescribed by the regulations —
  - (i) whether the offence is committed before, on or after the date that the offence is prescribed; and
  - (ii) whether the offence is committed before, on or after the date of commencement of this section.

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(2) Despite the applicants or applicant being ineligible under subsection (1) or section 4, the court may make an adoption order on an adoption application in any of the following circumstances:

- (a) in a case where subsection (1)(a) or (b) applies — either of the joint applicants or the sole applicant (as the case may be) and the child are within the prohibited degrees of consanguinity;
- (b) in a case where one of the 2 individuals in a marriage described in section 4(1)(a)(i) or (ii) wishes to make an adoption application solely —
  - (i) the individual's spouse consents to the sole application; or
  - (ii) the consent of the individual's spouse is to be dispensed with by the court because —
    - (A) he or she cannot be found or is incapable of giving such consent; or
    - (B) the individual and his or her spouse have separated and are living apart and the separation is likely to be permanent;
- (c) in a case where subsection (1) applies or the requirements in section 4(1)(a)(iii) or (iv) or (b) are not met — there are special circumstances which justify as an exceptional measure the making of an adoption order.

(3) In deciding whether there are special circumstances which justify as an exceptional measure the making of an adoption order under subsection (2)(c), the court is to give due consideration as to whether the Guardian-in-Adoption supports the making of the adoption order.

### **Child eligible for adoption**

**6.—(1)** An adoption order may only be made in respect of a child who is resident in Singapore.

(2) For the purpose of subsection (1), a child is deemed not to be resident in Singapore —

- (a) if the child is authorised or permitted to remain in Singapore by virtue of a visit pass, a student's pass or a special pass issued by the Controller of Immigration, irrespective of the number of occasions the pass is issued to the child or renewed; or
  - (b) if the child's presence in Singapore is unlawful under the provisions of the Immigration Act 1959 or the regulations made under that Act.
- (3) An adoption order may not be made in respect of any child who is or has been married.

### **Meaning of “suitable to adopt”**

7. In considering whether joint or sole applicants are suitable to adopt a child, an authorised adoption agency, the Guardian-in-Adoption and the court determining the adoption application must assess the applicants' suitability to adopt by reference (but not limited) to —

- (a) the factors prescribed by the regulations; and
- (b) any applicable ruling, decision or judicial pronouncement by any court in relation to a matter involving an adoption of a child.

### **Guardian-in-Adoption**

8.—(1) The Minister may appoint a public officer to be the Guardian-in-Adoption.

(2) The Guardian-in-Adoption has the general duty of safeguarding the welfare of any child for whom an adoptive parent is being sought, including a child before the court.

(3) The Guardian-in-Adoption is to exercise any of his or her powers or perform his or her duties under this Act subject to the general or special directions of the Minister.



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(4) Subject to subsection (5), the Guardian-in-Adoption may delegate the exercise or performance of all or any of the powers conferred or duties imposed on the Guardian-in-Adoption by or under this Act to any public officer or (with the written approval of the Minister) to any other individual, except the power of delegation under this subsection and the power of appointment under section 9.

(5) Any delegation under subsection (4) may be general or in a particular case and may be subject to any conditions or limitations specified by the Guardian-in-Adoption.

(6) Unless the context otherwise requires, any reference in this Act to the Guardian-in-Adoption includes a reference to a delegate under subsection (4).

(7) A delegate under subsection (4) is taken to be a public servant within the meaning of the Penal Code 1871 when exercising a power under this Act or in the course of performing a duty as the Guardian-in-Adoption.

### **Authorised officers**

**9.**—(1) The Guardian-in-Adoption may appoint any public officer with suitable qualifications or experience, or any individual belonging to such class of individuals (with suitable qualifications or experience) as may be prescribed by the regulations, as an authorised officer under this Act.

(2) Any appointment under subsection (1) may be subject to any conditions or limitations specified by the Guardian-in-Adoption.

(3) The Guardian-in-Adoption must issue to each authorised officer an identification card, whether in physical or digital form.

(4) If asked to do so, an authorised officer must produce his or her identification card for inspection before exercising a power under this Act.

(5) Every authorised officer whose appointment as such ceases must return to the Guardian-in-Adoption any physical identification card issued to him or her under subsection (3).

(6) An authorised officer is taken to be a public servant within the meaning of the Penal Code 1871 when exercising a power under this Act or in the course of performing a duty as an authorised officer.

### **Authorised adoption agencies**

**10.**—(1) The Minister may, with the agreement of an adoption agency or a fostering agency and subject to any terms that the Minister may specify, authorise the adoption agency or fostering agency as an authorised adoption agency for the purposes of this Act.

(2) The authorised adoption agency must comply with any directives issued by the Guardian-in-Adoption.

(3) Subject to subsections (4) and (5) and the regulations, an authorisation under subsection (1) is for the period specified by the Minister.

(4) Subject to the regulations, the Minister may, with the agreement of an authorised adoption agency, extend the authorisation of the authorised adoption agency for one or more times, by the period specified by the Minister each time.

(5) The Minister may cancel the authorisation of an authorised adoption agency before the expiry of the authorisation.

(6) Despite the expiry of the authorisation of an adoption agency or a fostering agency, the Minister may allow the adoption agency or fostering agency to exercise a power, or direct the adoption agency or fostering agency to carry out any function or duty, under this Act in any particular case or generally, and on any terms that the Minister may specify, in which case any reference in this Act to an authorised adoption agency includes a reference to that adoption agency or fostering agency.

(7) The Guardian-in-Adoption must cause to be published on the Internet website prescribed by the regulations the name, Unique Entity Number (UEN), and address of the place of business or the registered address, of every authorised adoption agency.

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(8) The regulations may provide for matters relating to the authorisation of adoption agencies and fostering agencies and authorised adoption agencies, including the following:

- (a) the criteria and procedure for an authorisation under subsection (1);
- (b) the criteria and procedure for the extension of an authorisation under subsection (4);
- (c) the duration of an authorisation under subsection (1) and the maximum period of each extension under subsection (4);
- (d) the grounds and procedure for the cancellation of an authorisation under subsection (5);
- (e) the keeping and retention of records and documents produced or received by authorised adoption agencies in the course of the performance or discharge of their functions and duties under this Act, the destruction or disposal of those records and documents, and the transfer of those records and documents kept and retained by an adoption agency or a fostering agency upon the cancellation of the adoption agency's or fostering agency's authorisation.

## PART 2

### PRE-ADOPTION APPLICATION REQUIREMENTS

#### *Division 1 — Summary of minimal requirements*

#### **Pre-adoption application requirements**

**11.** An adoption application may be made by an individual (whether jointly with his or her spouse or solely) only if he or she —

- (a) has attended a pre-adoption briefing described in section 12 within the last 3 years;
- (b) has attended a disclosure of adoptive status briefing described in section 13 within the last 3 years; and
- (c) holds a valid and favourable ASA described in section 14.

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*Division 2 — Briefings***Pre-adoption briefing**

**12.** A pre-adoption briefing is a briefing conducted by an authorised adoption agency which informs the attendees —

- (a) about the process of adoption in Singapore and the eligibility criteria for an adoption order;
- (b) that the rights, duties, obligations and liabilities of the parent or parents or guardian or guardians of a child vest in and become exercisable by and enforceable against the adoptive parent upon the making of an adoption order in respect of the child;
- (c) about the parenting of a child who has been adopted, including understanding the unique needs of such a child; and
- (d) about any other matters that the authorised adoption agency may include in the briefing relating to adoption in Singapore.

**Briefing on disclosure of adoptive status**

**13.** A disclosure of adoptive status briefing is a briefing conducted by an authorised adoption agency to —

- (a) convey to any individual who desires to adopt a child the benefits of disclosing to his or her adopted child the child's adoptive status;
- (b) equip the individual with the knowledge and skills to make the disclosure in a manner that ensures the welfare of his or her adopted child; and
- (c) encourage the individual to —
  - (i) make the disclosure as early as possible; and
  - (ii) explain to his or her adopted child the meaning of adoption in a manner that the child can understand.

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*Division 3 — Adoption suitability assessments***Requirement for favourable ASA**

14.—(1) A favourable ASA is —

- (a) in the case of a joint adoption application — an ASA issued by an authorised adoption agency to the applicants jointly and containing an assessment by the agency that the applicants are suitable to adopt a child, whether unequivocally or subject to the resolution of any one or more issues contained in the ASA; or
- (b) in the case of a sole adoption application — an ASA issued by an authorised adoption agency to the applicant containing an assessment by the agency that the applicant is suitable to adopt a child, whether unequivocally or subject to the resolution of any one or more issues contained in the ASA.

(2) No application for an ASA may be made by any individual (whether jointly with his or her spouse or solely) unless he or she has —

- (a) resided in Singapore for a continuous period of at least one year immediately preceding the date of the making of the application for the ASA; and
- (b) attended a pre-adoption briefing described in section 12.

(3) A valid ASA is an ASA —

- (a) that is issued in the form specified by the Guardian-in-Adoption for the purposes of this subsection;
- (b) that contains all the information specified by the Guardian-in-Adoption for the purposes of this subsection; and
- (c) the validity period (as determined according to section 20) for which has not been exceeded.

(4) An authorised adoption agency that issues an ASA must submit a copy of the ASA to the Guardian-in-Adoption on the day that the ASA is issued.

**Variation or revocation of ASA**

**15.**—(1) An authorised adoption agency that issued an ASA may, upon an application by the applicants or applicant (as the case may be) issued with the ASA, or on its own motion, vary or revoke the ASA if —

- (a) no adoption application has been made on the basis of the ASA; and
- (b) any of the conditions in subsection (3) is met.

(2) If no adoption application has been made on the basis of an ASA, the Guardian-in-Adoption may on his or her own motion —

- (a) vary or revoke the ASA if —
  - (i) any of the conditions in subsection (3) is met; or
  - (ii) the Guardian-in-Adoption disagrees with the assessment of the authorised adoption agency that issued the ASA; or
- (b) direct the authorised adoption agency that issued the ASA to vary or revoke the ASA if —
  - (i) any of the conditions in subsection (3) is met; or
  - (ii) the Guardian-in-Adoption disagrees with the assessment of the authorised adoption agency.

(3) The conditions mentioned in subsections (1) and (2) are as follows:

- (a) either or both of the applicants or the applicant (as the case may be) to whom the ASA was issued had made a false or misleading representation or provided any false or misleading information to the authorised adoption agency before the ASA was issued;

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- (b) any fact or information that would have made a material impact on the assessment by the authorised adoption agency, and that was not disclosed or made known to the agency before the ASA was issued, is now disclosed or made known to the authorised adoption agency or the Guardian-in-Adoption, as the case may be;
- (c) the authorised adoption agency or the Guardian-in-Adoption (as the case may be) has reason to believe that there has been a material change in the circumstances of either or both of the applicants or the applicant (as the case may be) issued with the ASA.

(4) In subsection (3)(c), a reference to a material change in circumstances is a reference to any change in circumstances that may be prescribed by the regulations, being a change that affects or is likely to affect the suitability of the applicants or applicant (as the case may be) to adopt a child.

(5) When an ASA is varied under this section, the authorised adoption agency or the Guardian-in-Adoption (as the case may be) may extend the validity of the ASA for a period specified by the authorised adoption agency or the Guardian-in-Adoption, as the case may be.

(6) The applicants or applicant concerned must be notified of a variation or revocation of, or a refusal to vary or revoke, an ASA under this section and the reasons for the variation, revocation or refusal.

### **Application under section 15 by surviving applicant**

**16.** Where an ASA was issued to joint applicants of whom one subsequently dies —

- (a) an application for a variation or revocation of the ASA under section 15(1) may be made by the surviving applicant; and
- (b) the power to vary an ASA under section 15(1) or (2)(a) or to direct the variation of an ASA under section 15(2)(b) includes the power to vary or to direct the variation of an

ASA from one issued jointly to the applicants to one issued solely to the surviving applicant.

### **Appeal to Guardian-in-Adoption**

17.—(1) Where the applicants or applicant to whom an ASA is issued are or is aggrieved by —

- (a) the assessment of an authorised adoption agency in the ASA;
- (b) the variation or revocation of the ASA under section 15(1);  
or
- (c) the refusal of the authorised adoption agency that issued the ASA to vary or revoke the ASA upon an application for a variation or revocation of the ASA under section 15(1),

the applicants (each called in this section a joint appellant) or applicant (called in this section the appellant) may appeal to the Guardian-in-Adoption in accordance with this section against the assessment, variation, revocation or refusal.

(2) An appeal under this section may be made only on one or more of the following grounds:

- (a) the assessment of the authorised adoption agency in the ASA or the decision of the authorised adoption agency to vary or revoke the ASA or to refuse to vary or revoke the ASA (as the case may be) was —
  - (i) based on a material error of fact; or
  - (ii) irrational;
- (b) the authorised adoption agency took into account irrelevant facts or information, or failed to take into account relevant facts or information, in making the assessment in the ASA or the decision to vary or revoke the ASA or to refuse to vary or revoke the ASA, as the case may be.

(3) An appeal under this section must —

- (a) be in writing;



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- (b) specify the name and address of each joint appellant or the appellant, as the case may be;
  - (c) contain a concise statement of the circumstances under which the appeal arises, each ground of the appeal and the facts and issues in the appeal;
  - (d) be supported by the relevant information or documents in relation to each ground of the appeal; and
  - (e) be made within —
    - (i) in the case of an appeal against the assessment in an ASA — 14 days after the ASA was issued;
    - (ii) in the case of an appeal against the variation or revocation of an ASA or the refusal to vary or revoke an ASA — 14 days after the joint appellants or the appellant were or was notified of the variation, revocation or refusal, as the case may be; or
    - (iii) in any case — any longer period that the Guardian-in-Adoption may allow in the particular case.

(4) The Guardian-in-Adoption may require the joint appellants or the appellant (as the case may be) to provide the Guardian-in-Adoption with the information or documents necessary for determining the appeal; and the joint appellants or the appellant (as the case may be) must provide the information or documents in the manner and within the period specified by the Guardian-in-Adoption.

(5) The Guardian-in-Adoption may decline to consider an appeal under this section if —

- (a) any requirement in subsection (3) or (4) is not satisfied or complied with; or
- (b) an appeal was previously made under this section in relation to the same ASA on the same ground or grounds and on the same facts.

(6) Upon considering an appeal under this section, the Guardian-in-Adoption may do any or more of the following:

- (a) confirm, vary or reverse the whole or any part of the assessment, variation, revocation or refusal by the authorised adoption agency concerned;
- (b) vary or revoke the ASA concerned;
- (c) extend the validity of the ASA concerned for any period specified by the Guardian-in-Adoption.

(7) The joint appellants or the appellant concerned must be notified of the Guardian-in-Adoption's decision under subsection (6)(a) or (b) and the reasons for the decision.

(8) An appeal under this section does not affect the validity of any assessment, variation, revocation or refusal to vary or revoke by an authorised adoption agency, or prevent the taking of any action to implement the assessment, variation, revocation or refusal, unless directed by the Guardian-in-Adoption in any particular case.

### **Appeal under section 17 by surviving applicant**

**18.** Where an ASA was issued to joint applicants of whom one subsequently dies —

- (a) an appeal under section 17 may be made by the surviving applicant; and
- (b) the power under section 17(6)(b) to vary an ASA includes the power to vary an ASA from one issued jointly to the applicants to one issued solely to the surviving applicant.

### **Powers to direct and request assessments, etc., for purposes of ASA**

**19.—**(1) The powers set out in subsection (2) may be exercised by the following persons for the corresponding purposes:

- (a) an authorised adoption agency — for the purpose of preparing an ASA or deciding whether to vary or revoke an ASA;
- (b) the Guardian-in-Adoption — for the purpose of deciding whether to vary or revoke an ASA or to direct an authorised adoption agency to vary or revoke an ASA.

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- (2) The powers mentioned in subsection (1) are as follows:
- (a) to direct any joint applicant or the sole applicant (as the case may be) for or issued with the ASA —
    - (i) to undergo any medical, psychiatric or psychological assessment, or any other assessment, that is in the view of the authorised adoption agency or Guardian-in-Adoption (as the case may be), relevant to a purpose mentioned in subsection (1)(a) or (b); or
    - (ii) to provide any document or information that the authorised adoption agency or Guardian-in-Adoption (as the case may be) considers relevant to a purpose mentioned in subsection (1)(a) or (b);
  - (b) to request any relative or member of the household of any joint applicant or the sole applicant (as the case may be) for or issued with the ASA —
    - (i) to undergo any medical, psychiatric or psychological assessment, or any other assessment that is, in the view of the authorised adoption agency or Guardian-in-Adoption (as the case may be), relevant to a purpose mentioned in subsection (1)(a) or (b); or
    - (ii) to provide any document or information that the authorised adoption agency or Guardian-in-Adoption (as the case may be) considers relevant to a purpose mentioned in subsection (1)(a) or (b);
  - (c) where the authorised adoption agency or Guardian-in-Adoption (as the case may be) has reason to believe that a particular person can provide any information or document that is relevant to a purpose mentioned in subsection (1)(a) or (b) (as the case may be) — to request that person to provide the information or document.

(3) Where any joint applicant or the sole applicant for or issued with an ASA fails to comply with any direction given by an authorised adoption agency under subsection (2)(a) for a purpose mentioned in subsection (1)(a), the authorised adoption agency may —

- (a) draw any adverse inference against the joint applicants or sole applicant when preparing the ASA or deciding whether to vary or revoke the ASA, as the case may be; or
- (b) solely on the basis of the failure —
  - (i) issue an unfavourable ASA;
  - (ii) in a case where the ASA is favourable at the time of issue — vary or revoke the ASA; or
  - (iii) in a case where the ASA is unfavourable at the time of issue — decline to vary the ASA.

(4) Where any joint applicant or the sole applicant (as the case may be) issued with an ASA fails to comply with any direction given by the Guardian-in-Adoption under subsection (2)(a) for a purpose mentioned in subsection (1)(b), the Guardian-in-Adoption may —

- (a) draw any adverse inference against the joint applicants or sole applicant (as the case may be) when deciding whether to vary or revoke the ASA or whether to direct the authorised adoption agency to vary or revoke the ASA; or
- (b) solely on the basis of the failure —
  - (i) in a case where the ASA is favourable at the time of issue — vary or revoke the ASA or direct the authorised adoption agency to vary or revoke the ASA; or
  - (ii) in a case where the ASA is unfavourable at the time of issue — decline to vary the ASA or to direct the authorised adoption agency to vary the ASA.

(5) An authorised adoption agency and the Guardian-in-Adoption are not personally liable, and the Government is not liable, for —

- (a) the cost of any assessment directed or requested under subsection (2); or

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(b) the cost of obtaining or providing any report of any assessment directed or requested under subsection (2).

(6) An individual cannot rely on —

(a) the common law privilege against self-incrimination or exposure to the imposition of a penalty; or

(b) any rule of law relating to legal professional privilege or any other privilege, or the public interest,

to refuse to provide any information or document directed to be provided under subsection (2)(a)(ii).

(7) For the purposes of this section, an unfavourable ASA is an ASA that is not a favourable ASA according to section 14(1).

### **Validity period of ASA**

**20.—**(1) Subject to this section, an ASA is valid for a period of 2 years starting on the date that it is issued.

(2) Where the validity of an ASA is extended under section 15(5) or 17(6)(c), the ASA is valid till the end of the period by which it is so extended.

(3) Despite anything in this Division —

(a) the Guardian-in-Adoption may by notice to any person issued with an ASA, extend the validity of the ASA for the period and from the date specified by the Guardian-in-Adoption in the notice; and

(b) upon the extension, the ASA is valid till the end of the period by which it is so extended.

### **Regulations relating to ASA**

**21.** Regulations made under section 75 may provide for all or any of the following matters relating to an ASA:

(a) the form and manner of an application for an ASA;

(b) the information and documents to accompany an application for an ASA;

- (c) the form of an ASA and the information that must be included in an ASA;
- (d) the procedure for a variation or revocation of an ASA;
- (e) the procedure for an appeal to the Guardian-in-Adoption under section 17.

*Division 4 — Duty to notify material changes*

**Duty to notify material changes in circumstances**

**22.—**(1) During the relevant period, the joint applicants (or either of them) or sole applicant for an ASA must, as soon as practicable after becoming aware of a material change in circumstances that has taken place during the relevant period, notify the material change to the authorised adoption agency to which the application for the ASA was made.

(2) During the relevant period, the joint applicants (or either of them) or sole applicant issued with an ASA must, as soon as practicable after becoming aware of a material change in circumstances that has taken place at any time after the making of the application for the ASA, notify the material change to the authorised adoption agency that issued the ASA and the Guardian-in-Adoption.

(3) A notification required under subsection (1) or (2) must be in writing and in the form for the time being specified by the Guardian-in-Adoption.

(4) In this section —

(a) “relevant period” —

- (i) in relation to subsection (1) — means the period starting on the day of the making of an application for an ASA and ending on the day immediately preceding the day that it is issued; and

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- (ii) in relation to subsection (2) — means the period starting on the day that an ASA is issued and ending on the day immediately preceding the day that an adoption application is made on the basis of the ASA; and
- (b) a reference to a material change in circumstances in subsection (1) or (2) is a reference to any change in circumstances that may be prescribed by the regulations, being a change that affects or is likely to affect the suitability of the joint applicants or sole applicant (as the case may be) to adopt a child.

### PART 3

#### ADOPTION PROCEEDINGS

##### *Division 1 — Power of court to make adoption orders*

#### **Power to make adoption orders**

**23.**—(1) Upon an adoption application in respect of a child, the court may, subject to the provisions of this Act, make an order for the adoption of that child by the applicants jointly or the applicant solely, as the case may be.

(2) An adoption order may be made for the adoption of a child by the father or mother of the child, either solely or jointly with his or her spouse.

(3) Except as provided in this section, no adoption order may be made for the adoption of a child by more than one individual.

(4) An adoption order may be made in respect of a child who has already been the subject of an adoption order (including an adoption order made under the repealed Act) and, upon any application for a further adoption order, the adoptive parents or adoptive parent under the adoption order last previously made are or is, if living, deemed to be the parents or parent (as the case may be) of the child for the purposes of this Act.

(5) The court may impose any terms and conditions on an adoption order that the court thinks fit and may, in particular, require the adoptive parents or adoptive parent (as the case may be) by bond or otherwise to make any provision for the child in respect of whom the adoption order is made that in the opinion of the court is just and expedient.

*Division 2 — Adoption applications*

**Form and contents of adoption application**

**24.** An adoption application —

- (a) must be in the form prescribed by the Family Justice Rules;
- (b) must be supported by an affidavit which verifies such statements, and to which is exhibited such documents, as may be prescribed by the Family Justice Rules; and
- (c) must seek any one or more reliefs as may be prescribed by the Family Justice Rules.

**Service of adoption application**

**25.—**(1) The court must not make an adoption order on any adoption application unless a copy each of the adoption application and the affidavit filed in support of the application are served on every relevant person of the child before the court no later than the time prescribed by the Family Justice Rules.

(2) Without affecting subsection (1), the court must not make an adoption order on any adoption application unless a copy each of the adoption application and the affidavit filed in support of the application are served on —

- (a) the Guardian-in-Adoption; and
- (b) if the child before the court is a child in state care — the Director-General,

no later than the time prescribed by the Family Justice Rules.

(3) Despite subsection (1), the court may dispense with the service required on any relevant person of the child before the court.



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(4) The court may order a copy of the adoption application and its supporting affidavit to be served on any person not mentioned in subsections (1) and (2).

### **Consent of relevant persons**

**26.—**(1) The court must not make an adoption order in respect of any child unless the consent of every relevant person for the adoption of the child has either been validly obtained or dispensed with by the court.

(2) For the purposes of subsection (1), the consent of a relevant person for the adoption of a child is not validly obtained unless the consent is —

- (a) given only after such information and documents as are prescribed by the regulations have been provided to the relevant person;
- (b) in writing and in the form prescribed by the regulations;
- (c) witnessed by 2 witnesses present at the same time, each of whom must have attained 21 years of age;
- (d) obtained in accordance with any other procedural requirements prescribed by the regulations; and
- (e) attested by a solicitor, a commissioner for oaths, a notary public or any person for the time being authorised by law in the place where the document is executed to administer oaths.

### *Division 3 — Role of Guardian-in-Adoption in adoption proceedings*

#### **Duty of Guardian-in-Adoption to file affidavit**

**27.—**(1) Upon the making of an adoption application in respect of a child and before the further hearing of the adoption application, the Guardian-in-Adoption must make an affidavit setting out the result of any investigation made as to —

- (a) the circumstances of the child, every relevant person of the child and the joint applicants or sole applicant, as the case may be; and
  - (b) all other matters relevant to the proposed adoption.
- (2) Without limiting subsection (1), the Guardian-in-Adoption's affidavit must include the Guardian-in-Adoption's assessment of the following matters:
- (a) whether the averments in the affidavit filed in support of the adoption application are true;
  - (b) whether the joint applicants or sole applicant (as the case may be) are or is suitable to adopt the child;
  - (c) whether there is any provision of this Act that may prohibit the court from making an adoption order on the application;
  - (d) whether the consent required under section 26 of every relevant person of the child has been validly obtained and, if not, whether the consent of any relevant person ought to be dispensed with;
  - (e) whether any payment or other reward in consideration of the adoption or for any adoption-related service has been made by or given to, or agreed to be made by or given to, the joint applicants (or either of them) or sole applicant, as the case may be;
  - (f) whether any payment or other reward mentioned in paragraph (e) ought to be sanctioned by the court;
  - (g) if the child is of suitable age and maturity — the child's wishes in relation to the proposed adoption;
  - (h) whether an adoption order, if made, will be for the welfare of the child;
  - (i) whether an adoption order ought to be made in the circumstances;

- (j) any other matter, as may be prescribed by the Family Justice Rules, which may assist the court in determining whether an adoption order ought to be made.

(3) In the case of an adoption application in respect of a child in state care, the Guardian-in-Adoption may request the Director-General or a protector who is familiar with the circumstances of the child to provide to the Guardian-in-Adoption a report setting out —

- (a) the circumstances that led to the child being in state care;
- (b) an update on the progress of the child's physical, mental, social and psychological development while in the care of the joint applicants or sole applicant, as the case may be;
- (c) what the Director-General or protector (as the case may be) understands to be the views of every relevant person of the child concerning the proposed adoption of the child; and
- (d) the views of the Director-General or protector (as the case may be) on whether the consent required under section 26 of any relevant person of the child ought to be dispensed with.

(4) Where the Director-General or a protector provides a report requested by the Guardian-in-Adoption under subsection (3), the Guardian-in-Adoption must take into account the contents of the report when preparing the Guardian-in-Adoption's affidavit.

### **Significance of Guardian-in-Adoption's affidavit**

**28.** The court must give due consideration to the Guardian-in-Adoption's affidavit in relation to an adoption application when deciding what order or orders is or are to be made on or in connection with the adoption application.

### **Powers of Guardian-in-Adoption, etc., to direct and request persons to undergo assessments, etc.**

**29.—(1)** The Guardian-in-Adoption may, for the purpose of discharging his or her duty under section 27(1) in relation to an adoption application, do any one or more of the following:

- (a) direct the joint applicants (or either of them) or sole applicant (as the case may be) or any relevant person of the child before the court —
    - (i) to undergo any medical, psychiatric or psychological assessment, or any other assessment, that the Guardian-in-Adoption considers relevant to that purpose; or
    - (ii) to submit to the Guardian-in-Adoption any information or document that the Guardian-in-Adoption considers relevant to that purpose;
  - (b) request any relative or member of the household of the joint applicants (or either of them) or sole applicant, as the case may be —
    - (i) to undergo any medical, psychiatric or psychological assessment, or any other assessment, that the Guardian-in-Adoption considers relevant to that purpose; or
    - (ii) to submit to the Guardian-in-Adoption any information or document that the Guardian-in-Adoption considers relevant to that purpose;
  - (c) direct the joint applicants or sole applicant (as the case may be) or any relevant person of the child before the court, to send the child for any medical, psychiatric or psychological assessment, or any other assessment, that the Guardian-in-Adoption considers relevant to that purpose;
  - (d) where the Guardian-in-Adoption has reason to believe that a particular person can provide any information or document that is relevant to that purpose — request that person to provide the information or document.
- (2) In addition to the powers under subsection (1), the Guardian-in-Adoption may, for the purpose of discharging his or

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her duty under section 27(1) in relation to an adoption application, require an authorised adoption agency to —

- (a) carry out —
  - (i) any supervision or consultation of the child before the court, the joint applicants (or either of them) or sole applicant, as the case may be; or
  - (ii) any preliminary investigation as to the circumstances of the child before the court, the joint applicants (or either of them) or sole applicant (as the case may be) or any relevant person of the child, including any preliminary investigation as to the home environment of the child while residing with the joint applicants (or either of them) or sole applicant, as the case may be; and
- (b) submit to the Guardian-in-Adoption a report of the supervision, consultation or preliminary investigation mentioned in paragraph (a) or any other information or document that the Guardian-in-Adoption considers relevant to that purpose.

(3) Where an authorised adoption agency is required under subsection (2) to carry out any supervision, consultation or preliminary investigation —

- (a) all the powers of the Guardian-in-Adoption under subsection (1) are exercisable by the authorised adoption agency; and
- (b) a reference to the Guardian-in-Adoption in subsection (1) includes a reference to that authorised adoption agency.

(4) Where the joint applicants (or either of them) or the sole applicant (as the case may be) fail or fails to comply with any direction under subsection (1) made by the Guardian-in-Adoption or an authorised adoption agency, the Guardian-in-Adoption may —

- (a) draw any adverse inference against the joint applicants or sole applicant (as the case may be) when making an assessment in the Guardian-in-Adoption's affidavit as to

whether an adoption order ought to be made in the circumstances; or

- (b) solely on the basis of the failure, make an assessment in the Guardian-in-Adoption's affidavit that an adoption order ought not to be made in the circumstances.

(5) Where any relevant person fails to comply with any direction given under subsection (1) by the Guardian-in-Adoption or an authorised adoption agency, the Guardian-in-Adoption may —

- (a) draw any adverse inference against the relevant person when making an assessment in the Guardian-in-Adoption's affidavit as to whether the consent of the relevant person required under section 26 has been validly obtained or ought to be dispensed with; or
- (b) solely on the basis of the failure, make an assessment in the Guardian-in-Adoption's affidavit that —
  - (i) the consent of the relevant person required under section 26 (if not obtained from the relevant person) ought to be dispensed with; or
  - (ii) the consent of the relevant person required under section 26 (if obtained from the relevant person) has been validly obtained.

(6) The Guardian-in-Adoption and an authorised adoption agency are not personally liable, and the Government is not liable, for —

- (a) the cost of any assessment directed or requested under subsection (1); or
- (b) the cost of obtaining or submitting any report of any assessment directed or requested under subsection (1).

(7) An individual cannot rely on —

- (a) the common law privilege against self-incrimination or exposure to the imposition of a penalty; or

- (b) any rule of law relating to legal professional privilege or any other privilege, or the public interest,

to refuse to provide any information or document directed to be provided under subsection (1)(a)(ii).

**Duty of applicants to notify Guardian-in-Adoption of material changes in circumstances**

**30.—(1)** Where —

- (a) joint applicants or a sole applicant have or has filed an adoption application supported by an HSR or intend or intends to file an adoption application supported by an HSR; and
- (b) before the date of commencement of this section, the joint applicants (or either of them) or sole applicant (as the case may be) become or becomes aware of a material change in circumstances that has taken place at any time after the making of the application for the HSR,

the joint applicants (or either of them) or sole applicant (as the case may be) must notify the material change to the Guardian-in-Adoption as soon as practicable after the date of commencement of this section or, in any event, within 7 days after the date of filing of the adoption application.

(2) Where —

- (a) joint applicants or a sole applicant intend or intends to file an adoption application supported by an HSR; and
- (b) on or after the date of commencement of this section, the joint applicants (or either of them) or sole applicant (as the case may be) become or becomes aware of a material change in circumstances that has taken place at any time after the making of the application for the HSR,

the joint applicants (or either of them) or sole applicant (as the case may be) must notify the material change to the Guardian-in-Adoption as soon as practicable after becoming aware of the material change.

(3) Where —

- (a) an adoption application is filed on the basis of an ASA or supported by an HSR;
- (b) the adoption proceedings arising from the adoption application are pending; and
- (c) on or after the date of commencement of this section, the joint applicants (or either of them) or sole applicant (as the case may be) become or becomes aware of a material change in circumstances that has taken place at any time after the making of the application for the ASA or HSR, as the case may be,

the joint applicants (or either of them) or sole applicant (as the case may be) must notify the Guardian-in-Adoption as soon as practicable after becoming aware of such material change.

(4) A notification required under subsection (1), (2) or (3) must be in writing and in the form specified by the Guardian-in-Adoption.

(5) In this section, a reference to a material change in circumstances in subsection (1), (2) or (3) is a reference to any change in circumstances that may be prescribed by the regulations, being a change that affects or is likely to affect the suitability of the joint applicants or sole applicant (as the case may be) to adopt a child.

#### *Division 4 — Court's powers during adoption proceedings*

##### **Power to make interim orders**

**31.—**(1) Subject to subsection (3), in any adoption proceedings before a court, the court may make an interim order giving the custody and care and control of the child before the court to the joint applicants or sole applicant (as the case may be) for a period not exceeding 2 years.

(2) An interim order under subsection (1) may be made upon any terms as regards provision for the maintenance and education and the supervision of the welfare of the child and otherwise that the court thinks fit.



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(3) The court must not make an interim order under subsection (1) unless the consent of every relevant person of the child before the court has either been validly obtained in accordance with section 26 or dispensed with by the court.

(4) An interim order under subsection (1) may be made in respect of a child who has already been the subject of an adoption order (including under the repealed Act) and, upon any application for a further adoption order, the adoptive parents or adoptive parent (as the case may be) under the adoption order last previously made are or is, if living, deemed to be the parents or parent of the child for the purposes of this Act.

### **Power to require provision, and to empower making of decisions, for child**

**32.—**(1) The court may, for the purpose of ensuring the welfare of the child before the court during the adoption proceedings —

- (a) require the joint applicants or sole applicant (as the case may be) of the adoption application to make provision by bond or otherwise for the child that in the opinion of the court is just and expedient; or
- (b) make any order or give any direction that the court thinks fit.

(2) At any time during the adoption proceedings and upon the application of the joint applicants or sole applicant (as the case may be), the court may make an order, on any terms that the court may specify, empowering the applicants or applicant (as the case may be) to decide on a specific matter that does not relate to the day-to-day care of a child but is ordinarily made in the course of providing care for a child.

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**Power to draw adverse inferences, etc., for failure to notify, etc.**

**33.**—(1) The court may, on the application of the Guardian-in-Adoption or on its own motion, draw any adverse inference against the joint applicants or sole applicant (as the case may be) of an adoption application or any relevant person of the child before the court, or make any other order as the court thinks fit, if the court is satisfied that —

- (a) the joint applicants (or either of them) or sole applicant (as the case may be) have or has failed to comply with section 22(1) or (2) or 30(1), (2) or (3);
- (b) before the issue of the ASA based on which the adoption application is made or the issue of any HSR filed in support of the adoption application, any fact or information that would have made a material impact on the assessment by the authorised adoption agency that was preparing the ASA or the adoption agency that was preparing the HSR (as the case may be), was not disclosed or made known to the agency by the joint applicants (or either of them) or sole applicant, as the case may be;
- (c) before the Guardian-in-Adoption’s affidavit was filed in court, any fact or information that would have made a material impact on the assessment of the Guardian-in-Adoption in the affidavit was not disclosed by the joint applicants (or either of them) or sole applicant (as the case may be) or any relevant person of the child before the court to the Guardian-in-Adoption either —
  - (i) directly to the Guardian-in-Adoption; or
  - (ii) through an authorised adoption agency required under section 29(2) to carry out any supervision, consultation or preliminary investigation in relation to the adoption application; or
- (d) the joint applicants (or either of them) or sole applicant (as the case may be) or any relevant person of the child before the court have or has provided false or misleading information pertaining to the proposed adoption to —

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- (i) the court;
  - (ii) the Guardian-in-Adoption;
  - (iii) the authorised adoption agency that issued the ASA on which the adoption application is made or the adoption agency that issued any HSR filed in support of the adoption application; or
  - (iv) the authorised adoption agency required under section 29(2) to carry out any supervision, consultation or preliminary investigation in relation to the adoption application.

(2) Where the joint applicants or sole applicant (as the case may be) do not or does not comply with any requirement, order or direction given under section 32(1), the court may draw any adverse inference against the joint applicants or sole applicant (as the case may be) or make any other order as the court thinks fit.

(3) The court may strike out an adoption application in respect of a child if the application is not made within the period prescribed by the regulations beginning on the first day that any joint applicant or the sole applicant, as the case may be —

- (a) resides with the child; or
- (b) starts spending any amount of time with the child for the purpose of considering whether to adopt the child.

(4) Subsection (3) does not apply if —

- (a) before the date of commencement of this section, any joint applicant or the sole applicant (as the case may be) is residing with the child, or starts spending any amount of time with the child for the purpose of considering whether to adopt the child; or
- (b) any of the circumstances set out in section 57(4) applies to any joint applicant or the sole applicant (as the case may be) and, for this purpose, a reference to a potential adopter in that provision is to be read as a reference to a joint applicant or the sole applicant, as the case may be.

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**Power to order assessments and submission of further information and documents**

**34.—**(1) The court may, on the application of the Guardian-in-Adoption or on its own motion, for any of the purposes specified in subsection (2) —

- (a) order any person who, in the opinion of the court, is able to provide any information or documents that the court may specify, to provide the information or documents to the court or the Guardian-in-Adoption;
  - (b) order the joint applicants (or either of them) or sole applicant (as the case may be) of an adoption application, or any relevant person of the child before the court, to —
    - (i) undergo any medical, psychiatric or psychological assessment, or other assessment, that the court thinks necessary;
    - (ii) send the child before the court to undergo any medical, psychiatric or psychological assessment, or other assessment, that the court thinks necessary; or
    - (iii) render any assistance to the court that the court thinks necessary; or
  - (c) make any order or give any other direction as the court thinks fit.
- (2) The purposes mentioned in subsection (1) are as follows:
- (a) to obtain any information as to the family background, general conduct, home environment, school record, medical history and state of development of the child, that may enable the court to deal with the adoption application with regard to the welfare of the child;
  - (b) to determine whether the consent required under section 26 of any relevant person of the child has been validly obtained or ought to be dispensed with;
  - (c) to determine whether the joint applicants or sole applicant (as the case may be) are or is suitable to adopt the child.

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(3) Unless the court orders otherwise, the costs of and incidental to any assessment required by the court under subsection (1) must be borne by —

- (a) in the case of an assessment required of any joint applicant, the sole applicant or the child before the court — the joint applicants or sole applicant, as the case may be; or
- (b) in the case of an assessment required of any relevant person of the child before the court — the relevant person.

(4) Any report of an assessment required to be submitted to the court under subsection (1) may be received and considered by the court without being read aloud.

(5) Where the joint applicants (or either of them) or sole applicant (as the case may be) fail or fails to comply with any order of the court under subsection (1), the court may draw any adverse inference against the joint applicants or sole applicant, as the case may be.

(6) Where any relevant person of the child before the court fails to comply with any order of the court under subsection (1), the court may draw any adverse inference against the relevant person when deciding whether the consent of the relevant person required under section 26 has been validly obtained or ought to be dispensed with.

(7) Despite the provisions of the Administration of Justice (Protection) Act 2016, failure to comply with any order given under subsection (1) is not a contempt of court.

(8) If any order under subsection (1) is not complied with, the court may —

- (a) stay the adoption proceedings until the order has been complied with;
- (b) order any person responsible for the non-compliance to pay the costs of the adoption proceedings; or
- (c) make any other order as the court thinks fit.

**Power to order mediation, counselling, etc.**

**35.**—(1) At any time during any adoption proceedings, the court may, on the application of the Guardian-in-Adoption or on its own motion, make an order requiring the joint applicants (or either of them) or sole applicant (as the case may be), any relevant person of the child before the court, or the child, to undergo mediation, counselling, psychotherapy or other assessment, programme or treatment or to partake in any activity that the court thinks is beneficial for achieving any of the following:

- (a) in the case of a contested adoption application — an amicable resolution of any issue arising from the application;
- (b) in any case —
  - (i) enhancing, promoting or protecting the physical, mental, social or psychological wellbeing or safety of the child before the court; or
  - (ii) resolving any relationship problem —
    - (A) between the joint applicants (or either of them) or sole applicant (as the case may be) and the child;
    - (B) between the joint applicants (or either of them) or sole applicant (as the case may be) and any relevant person of the child; or
    - (C) between the child and any relevant person of the child.

(2) In making an order under subsection (1), the court may require the joint applicants or sole applicant (as the case may be) or the relevant person to enter into a bond to comply with the order.

(3) Despite the provisions of the Administration of Justice (Protection) Act 2016, failure to comply with any order given under subsection (1) is not a contempt of court.

(4) If any order under subsection (1) is not complied with, the court may —

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- (a) stay the adoption proceedings until the order has been complied with;
  - (b) order any person responsible for the non-compliance to pay the costs of the adoption proceedings; or
  - (c) make any other order as the court thinks fit.

*Division 5 — Dispensation of consent of relevant persons*

**Interpretation of this Division**

**36. In this Division —**

“emotional harm”, in relation to a child, means any serious impairment to the growth, development, or behavioural, cognitive or affective functioning of the child, and includes —

- (a) delayed mental and physical development of the child;
- (b) a child assessed by the Director-General or a protector to be of danger to himself or herself or to other persons;
- (c) a child assessed by the Director-General or a protector to be severely withdrawn, anxious or depressed; and
- (d) a child diagnosed by a registered medical practitioner as having a mental health condition such as post-traumatic stress disorder, anxiety, depression or psychosomatic disorder;

“grievous hurt” has the meaning given by section 320 of the Penal Code 1871;

“relevant offence” means —

- (a) any offence under Part 2 of the Children and Young Persons Act 1993;
- (b) any offence under Chapter 16 of the Penal Code 1871; or

- (c) any offence involving the causing of bodily injury to a child.

### **Grounds for dispensation of consent of relevant persons**

**37.—(1)** The court may, on any of the following grounds, dispense with the consent required under section 26 of any relevant person of a child before the court:

- (a) the child is the subject of an order under section 56(2)(a) of the Children and Young Persons Act 1993, or under section 56(2)(a) of that Act as applied by section 57 of that Act, being an order that is in force;
- (b) the relevant person has abandoned or neglected the child or cannot be found;
- (c) the relevant person has —
  - (i) intentionally caused grievous hurt to the child, or acted in a manner that the relevant person knew was likely to cause grievous hurt to the child; or
  - (ii) caused, procured or knowingly permitted another person to cause grievous hurt to the child;
- (d) the relevant person —
  - (i) has at any time before the specified period, ill-treated the child or caused, procured or knowingly permitted another person to ill-treat the child; and
  - (ii) by the end of the specified period, has not taken, or is unable or unwilling to take, reasonable steps to resolve the circumstances that caused or contributed to the ill-treatment or that can cause or contribute to the recurrence of ill-treatment;
- (e) the relevant person —
  - (i) failed to provide suitable care for the child at any time before the specified period, thereby causing the child to be in need of care or protection (whether before or during the specified period); and



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- (ii) by the end of the specified period, has not taken, or is unable or unwilling to take, reasonable steps to resolve the circumstances that caused or contributed to the child being in need of care or protection or that can cause or contribute to the recurrence of the child being in need of care or protection;
  - (f) the relevant person is a drug addict as defined in section 2 of the Misuse of Drugs Act 1973, has been convicted of offences under that Act (or any corresponding previous law) on at least 2 separate occasions and is, by virtue of his or her addiction and convictions, unable, unwilling or unlikely to care for the child;
  - (g) the relevant person is in remand or serving a sentence of imprisonment, or is serving an order of detention under any written law (whether or not for his or her own rehabilitation or safety), for a duration as to render him or her unable, unwilling or unlikely to care for the child;
  - (h) the relevant person has any physical or mental incapacity of such nature or degree, and the incapacity is likely to continue for such duration, as to render him or her unable, unwilling or unlikely to care for the child;
  - (i) the consent of the relevant person, in the opinion of the court and in all the circumstances of the case, ought to be dispensed with.

(2) For the purpose of determining whether the ground in subsection (1)(h) exists in relation to a relevant person, the court must take into account a medical assessment or psychiatric assessment (as the case may be) of the relevant person.

(3) To avoid doubt, the court may dispense with the consent of any relevant person under subsection (1) even if the relevant person has made suitable initial arrangements for the child by placing the child under the care of another person or in a home for children and young persons, whether pursuant to a court order or voluntary care agreement under the Children and Young Persons Act 1993 or otherwise.

(4) In this section, “specified period”, in relation to the ill-treatment of, or the failure to provide suitable care for, a child, means the following period (whichever is applicable) immediately preceding the making of an adoption application in respect of the child:

- (a) where the child is below 3 years of age — 12 months;
- (b) where the child is 3 years of age or older — 24 months.

### **Meaning of “ill-treatment”**

**38.** For the purposes of this Division, ill-treatment of a child occurs when a person (whether the relevant person of the child or otherwise) —

- (a) subjects the child to physical or sexual abuse;
- (b) wilfully or unreasonably does, or causes the child to do, any act which endangers or is likely to endanger the safety of the child or which causes or is likely to cause the child —
  - (i) any unnecessary physical pain, suffering or injury;
  - (ii) any emotional harm; or
  - (iii) any injury to the child’s health or development; or
- (c) wilfully or unreasonably exposes the child with full intention of abandoning the child or in circumstances that are likely to endanger the safety of the child or cause the child —
  - (i) any unnecessary physical pain, suffering or injury;
  - (ii) any emotional harm; or

(iii) any injury to the child's health or development, whether or not any actual suffering or injury on the part of the child or the likelihood of any suffering or injury on the part of the child was prevented by another person.

**When does relevant person knowingly permit another person to cause grievous hurt to or ill-treat child**

**39.** For the purposes of section 37(1)(c) and (d) —

- (a) a relevant person knowingly permits another person (*A*) to cause grievous hurt to a child or to ill-treat a child if the relevant person —
  - (i) knows or has reason to believe that the child was at risk of being caused grievous hurt or being ill-treated by *A*; and
  - (ii) failed to take such steps as the relevant person could reasonably have been expected in the relevant person's circumstances to take to protect the child from that risk; and
- (b) the relevant person's circumstances mentioned in paragraph (a)(ii) include but are not limited to his or her past or present experiences of being caused grievous hurt or being ill-treated by *A*, if any.

**When is child in need of care or protection**

**40.** For the purposes of section 37(1)(e), a child is in need of care or protection if —

- (a) the relevant person —
  - (i) is unable or has neglected to provide adequate food, clothing, medical aid, lodging, care or other necessities of life for the child; or
  - (ii) is unfit or unable or has neglected to exercise proper supervision and control over the child, and the child is falling into bad association, or is exposed to moral danger, or is beyond control;

- (b) the child is being or is at risk of being ill-treated —
- (i) by the relevant person; or
  - (ii) by any other person, and the relevant person, although knowing of the ill-treatment or risk, has not protected or is unlikely or unwilling to protect the child from the ill-treatment;
- (c) the child needs to be examined, investigated or treated for the purpose of restoring or preserving the child's health or development and the relevant person neglects or refuses to have the child so examined, investigated or treated;
- (d) the child behaves in a manner that is, or is likely to be, harmful to himself or herself or to any person and —
- (i) the relevant person is unable or unwilling to take necessary measures to remedy the situation; or
  - (ii) the remedial measures taken by the relevant person fail;
- (e) the child suffers or is likely to suffer from emotional harm because the child has been or is subject to emotional or psychological abuse by the relevant person;
- (f) the child (*A*) —
- (i) is a person in respect of whom a relevant offence has been or is believed to have been committed; or
  - (ii) is a member of the same household as another child (*B*) in respect of whom a relevant offence has been or is believed to have been committed, and *A* appears to be in danger of a similar offence being committed against him or her,

and either the person who committed or is believed to have committed the offence or who has been convicted of the offence is the relevant person of *A*, or the relevant person of *A* is unable, unlikely or unwilling to protect *A* from the offence; or

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- (g) the child is found to be —
- (i) destitute or wandering without any settled place of abode and without visible means of subsistence;
  - (ii) begging or receiving alms (whether or not there is any pretence of singing, playing, performing or offering anything for sale) or loitering for the purpose of so begging or receiving alms;
  - (iii) engaged in carrying out illegal lotteries, illegal hawking, gambling or other undesirable activities; or
  - (iv) using or inhaling any intoxicating substance (as defined in the Intoxicating Substances Act 1987) for the purpose of inducing or causing in himself or herself a state of intoxication.

### **Circumstances of emotional or psychological abuse**

**41.—**(1) Without limiting section 40(e), the circumstances in which a child may be regarded as being subject to emotional or psychological abuse by the relevant person under that provision include any of the following:

- (a) the relevant person subjects the child to persistent acts of rejection or degradation that are harmful to the child's wellbeing or sense of self-worth;
- (b) the relevant person threatens to physically hurt, kill or abandon the child, or places the child or a related person of the child in any dangerous situation;
- (c) the relevant person isolates the child by consistently denying opportunities for the child to communicate with any person;
- (d) the relevant person confines the child in any small space for the purpose of disciplining the child;

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- (e) the relevant person influences the child to develop self-destructive, anti-social, criminal, deviant or other maladaptive behaviour;

*Illustrations*

(a) The relevant person engages in, permits or encourages anti-social behaviour such as prostitution, performance in pornographic media, initiation of criminal activities, substance abuse or committing violence to any person.

(b) The relevant person engages in, permits or encourages developmentally inappropriate behaviour by infantilising the child.

(c) The relevant person engages in, permits or encourages any other behaviour that would result in the exploitation or corruption of the child.

- (f) the relevant person exposes the child to, or places the child at any risk of exposure to, any violence against a related person of the child.

(2) In this section, “related person”, in relation to a child, means another person about whose safety or wellbeing the child would reasonably be expected to be seriously concerned.

*Division 6 — Matters at conclusion of adoption proceedings*

**Matters with respect to which court to be satisfied before making adoption order**

**42.—**(1) The court must not make an adoption order unless the court is satisfied that —

- (a) every relevant person whose consent is required under section 26 and whose consent is not dispensed with has freely consented to and understands the nature and effect of the adoption order and, in particular, every relevant person who is a parent of the child understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights over the child;
- (b) the adoption order, if made, will be for the welfare of the child; and

- (c) the joint applicants or sole applicant (as the case may be) have or has the appropriate character and fitness and are or is suitable to adopt the child.

(2) For the purpose of satisfying itself whether the adoption order, if made, will be for the welfare of the child under subsection (1)(b), the court is to give due consideration to the wishes of the child, having regard to the age and maturity of the child.

### **Power to order removal and placement of child upon unsuccessful adoption application**

**43.—**(1) This section applies where an adoption application is unsuccessful.

(2) The court may, upon an application of the Guardian-in-Adoption or on its own motion, order the person having physical custody of the child who is the subject of an unsuccessful adoption application to deliver the child to the physical custody of a suitable person recommended by the Guardian-in-Adoption within the time specified by the court.

(3) For the purposes of enforcing an order under subsection (2), the court may direct the bailiff to seize the child from the physical custody of any person or from any place and deliver the child to the physical custody of the suitable person mentioned in that subsection.

(4) The court may, upon the application of the Guardian-in-Adoption or on its own motion, make any order as it thinks fit (whether or not an order under subsection (2) has also been made) to facilitate any change in the physical custody of a child who is the subject of an unsuccessful adoption application.

(5) Any person who, without reasonable excuse, fails to comply with an order under subsection (2) shall be guilty of an offence and shall be liable on conviction —

- (a) on the first conviction — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or

- (b) on a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

(6) In this section, a reference to an adoption application that is unsuccessful is a reference to an adoption application that is withdrawn, struck out or dismissed by the court.

## PART 4

### POST-ADOPTION MATTERS

#### **Matters relating to registration or re-registration of births of adopted children**

44.—(1) If an adoption order (including an adoption order under the repealed Act) is made, the registrar of the court that makes the adoption order must, as soon as practicable, provide to the Registrar-General of Births and Deaths (called in this Part the Registrar-General) a copy of the adoption order and the particulars (as far as they are known to the court) that are required for the purposes of registration or re-registration of the adopted child's birth under the Registration of Births and Deaths Act 2021.

(2) Where —

- (a) the precise date of the adopted child's birth is not proved to the satisfaction of the court, the court must determine the probable date of the adopted child's birth and the date so determined must be specified in the order as the date of the adopted child's birth; and
- (b) the country of birth of the adopted child is not proved to the satisfaction of the court, the particulars of that country may be omitted from the order and from the entry in the register maintained by the Registrar-General.

(3) No extract from the Adopted Children Register previously maintained under section 11 of the repealed Act before 15 May 1972 may be issued except by an order of court.

(4) The Registrar-General must keep any other registers and books that record the connection between any entry in the Adopted Children



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Register previously maintained under section 11 of the repealed Act before 15 May 1972 and any entry in the registers of births made pursuant to section 12 of the repealed Act.

(5) The registers and books and any index of the registers and books kept under subsection (4) are not open to public inspection or search, and the Registrar-General must not, except under an order of court, provide any person with any information contained in or with any copy or extract from the registers or books.

(6) In subsection (1), “registrar” means the Registrar of the Supreme Court or the registrar of the Family Justice Courts.

### **Power to order persons to undergo mediation, counselling, etc., post adoption proceedings**

**45.**—(1) This section applies after adoption proceedings arising from an adoption application (including an adoption application under the repealed Act) are concluded.

(2) The court may, upon the application of the Guardian-in-Adoption, make an order requiring the joint applicants (or either of them) or sole applicant (as the case may be), any relevant person of the child in respect of whom the adoption application was made, or the child, to undergo mediation, counselling, psychotherapy or other assessment, programme or treatment or to partake in any activity that the court thinks is beneficial for achieving any of the following:

- (a) enhancing, promoting or protecting the physical, mental, social, or psychological wellbeing or safety of the child;
- (b) resolving any relationship problem —
  - (i) between the joint applicants (or either of them) or sole applicant (as the case may be) and the child;
  - (ii) between the joint applicants (or either of them) or sole applicant (as the case may be) and any relevant person of the child;
  - (iii) between the child and any relevant person of the child; or

- (iv) in a case where an adoption order has been made on the adoption application — within the adoptive family of the child.

(3) In making an order under subsection (2), the court may require the joint applicants or sole applicant (as the case may be) or the relevant person to enter into a bond to comply with the order.

### **Effect of adoption order on status of adopted child vis-à-vis adoptive parents and on citizenship**

**46.—**(1) Upon an adoption order being made —

- (a) all rights, duties, obligations and liabilities of the parent or parents or guardian or guardians of the adopted child, in relation to the future custody, care and control, maintenance and education of the adopted child, including all rights to appoint a guardian or to consent or refuse consent to marriage, are extinguished;
- (b) all the rights, duties, obligations and liabilities mentioned in paragraph (a) vest in and are exercisable by and enforceable against the adoptive parents or adoptive parent as though the adopted child were a child born to the adoptive parents or adoptive parent in a lawful marriage; and
- (c) in respect of the same matters and in respect of the liability of a child to maintain his or her parents, the adopted child stands to the adoptive parents or adoptive parent exclusively in the position of a child born to the adoptive parents or adoptive parent in a lawful marriage.

(2) In a case where 2 individuals married to each other are the adoptive parents, the individuals stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child stands to them respectively in the same relation as a child would have stood to a lawful father and mother respectively —

- (a) in respect of the matters in subsection (1)(a), (b) and (c); and

(b) for the purpose of the jurisdiction of any court to make orders as to the custody, care and control and maintenance of and right of access to children.

(3) For the purpose of the law relating to marriage, an adoptive parent and all children and adopted children of the adoptive parent are deemed to be within the prohibited degrees of consanguinity.

(4) Subsection (3) continues to have effect even if a person other than the adoptive parent of an adopted child adopts the same child under a subsequent adoption order.

(5) An adoption order in itself does not affect the citizenship of an adopted child.

### **Effect of adoption order on property of adoptive parents and adopted child**

47.—(1) Where, at any time after the making of an adoption order, an adoptive parent or the adopted child or any other person dies intestate in respect of any movable or immovable property, that property devolves in all respects as if the adopted child were the child of the adoptive parent born in a lawful marriage and not the child of any other person.

(2) In any disposition of movable or immovable property made, whether by instrument inter vivos or by will (including codicil) after the date of the adoption order —

- (a) any reference (whether express or implied) in the disposition to the child or children of the adoptive parent is to be construed, unless the contrary intention appears, as or as including a reference to the adopted child;
- (b) any reference (whether express or implied) in the disposition to the child or children of the adopted child's biological parents or either of them is to be construed, unless the contrary intention appears, as not being or as not including a reference to the adopted child; and
- (c) any reference (whether express or implied) in the disposition to a person related to the adopted child in any degree is to be construed, unless the contrary intention

appears, as a reference to the person who would be related to the adopted child in that degree if the adopted child were the child of the adoptive parent born in a lawful marriage and not the child of any other person.

(3) Where —

- (a) an adopted child or the spouse or issue of an adopted child takes any interest in movable or immovable property under a disposition by his or her adoptive parent or under any intestacy; or
- (b) an adoptive parent of an adopted child takes any interest in movable or immovable property under —
  - (i) a disposition by the adopted child or the spouse or an issue of the adopted child; or
  - (ii) the intestacy of the adopted child or the spouse or an issue of the adopted child,

any estate or other duty which becomes leviable in respect of the movable or immovable property is payable at the same rate as if the adopted child had been a child born to the adoptive parent in a lawful marriage.

(4) For the purposes of this section, “disposition” means an assurance of any interest in property by any instrument whether inter vivos or by will (including codicil).

(5) For the purposes of section 20 or 21 of the Civil Law Act 1909 —

- (a) a person is deemed to be the parent or child of the deceased despite being only related to the deceased in consequence of adoption; and
- (b) accordingly, in deducing any relationship which under the provisions of that section is included within the meaning of the expressions “parent” and “child”, an adopted child is to be treated as being, or as having been, the legitimate offspring of his or her adoptive parent.

(6) Subject to subsection (7) but despite anything else in this section, trustees or personal representatives —

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- (a) may convey or distribute any movable or immovable property to or among the persons entitled to the property without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest in the property; and
  - (b) are not liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution.

(7) Nothing in subsection (6) affects the right of any person mentioned in subsection (6)(b) to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

(8) Where an adoption order is made in respect of a person who has been previously adopted (whether under this Act or the repealed Act), the previous adoption is to be disregarded for the purposes of this section in relation to —

- (a) the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order; and
- (b) any disposition of property made after that date.

## PART 5

### CONFIDENTIALITY OF CHILDREN INVOLVED IN ADOPTION PROCEEDINGS

#### **Restriction on publication or broadcast of information or pictures of children involved in adoption proceedings**

**48.**—(1) Subject to subsections (2) and (3), a person must not publish or broadcast any information or picture that identifies, or is likely to lead to the identification of, any protected person as a child who was or is the subject of an adoption application —

- (a) whether or not an adoption order was or has been made on the adoption application; and
- (b) even after the protected person attains 21 years of age.

- (2) Subsection (1) does not apply where —
- (a) in a case where the adoption application was successful and the protected person is below 21 years of age — the adoptive parent of the protected person consents to the publication or broadcast;
  - (b) in a case where the protected person has attained 21 years of age — the protected person consents to the publication or broadcast;
  - (c) in a case where the adoption application was unsuccessful and the protected person is below 21 years of age — a relevant person of the protected person consents to the publication or broadcast; or
  - (d) in any case — the Guardian-in-Adoption gives his or her approval for the publication or broadcast.
- (3) Nothing in subsection (1) prevents —
- (a) any relevant person of a protected person who is below 21 years of age and in respect of whom no adoption order has been made and no adoption proceedings are pending;
  - (b) the adoptive parent of a protected person who is below 21 years of age; or
  - (c) a protected person in respect of whom no adoption proceedings are pending,

from publishing or broadcasting any information or picture mentioned in that subsection in relation to the protected person.

(4) If any information or picture is published or broadcast in contravention of subsection (1) —

- (a) in the case of the publication of any information or picture as part of a newspaper or periodical publication — every proprietor, editor, publisher or distributor of the newspaper or periodical publication;
- (b) in the case of the publication of any information or picture otherwise than as part of a newspaper or periodical

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publication — every person who publishes or distributes it;  
or

- (c) in the case of the broadcast of any information or picture —
- (i) every person who broadcasts the information or picture;
  - (ii) every person who transmits or provides the programme in which the information or picture is broadcast; and
  - (iii) every person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication,

shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000 or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

(5) The court may, in addition to any punishment mentioned in subsection (4), order a person to do any one or more of the following:

- (a) remove the publication or stop the broadcast, of any information or picture that is in contravention of subsection (1);
- (b) remove the programme in which the information or picture that is broadcast in contravention of subsection (1) is broadcast;
- (c) delete the information or picture that is published or broadcast in contravention of subsection (1);
- (d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of subsection (1) is no longer available on or through the Internet.

(6) Subsection (1) is in addition to, and not in derogation from, the provisions of any other written law with respect to the publication of information relating to judicial proceedings.

(7) In this section and sections 49, 51 and 52 —

“adoption application” and “adoption order” include an application and an order, respectively, made under section 3 of the repealed Act;

“broadcast” means sounds or visual images —

- (a) broadcast by wireless telegraphy, or by means of a high frequency distribution system over wire or other paths provided by a material substance, and intended for general reception;
- (b) broadcast through the Internet or any website, web service or Internet application, whether or not intended for general reception; or
- (c) broadcast through any messaging system;

“messaging system” means any system that enables the transmission of short text messages, or of any visual communication, voice communication or email —

- (a) from a digital mobile telephone to another digital mobile telephone; or
- (b) from an email address to a digital mobile telephone, or the other way around;

“protected person” means an individual in respect of whom an adoption application was or has been made;

“publish”, in relation to any information or picture, means to bring the information or picture to the notice of the public or a section of the public by any means, including (to avoid doubt) through —

- (a) the Internet or any website, web service or Internet application; or
- (b) any messaging system.



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**Order to remove publication or broadcast in contravention of section 48**

**49.—**(1) A court may, on the application of any of the persons mentioned in subsection (2), order a person to do any or more of the following:

- (a) remove the publication, or stop the broadcast, of any information or picture that is in contravention of section 48(1);
  - (b) remove the programme in which the information or picture that is broadcast in contravention of section 48(1) is broadcast;
  - (c) delete the information or picture that is published or broadcast in contravention of section 48(1);
  - (d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of section 48(1) is no longer available on or through the Internet.
- (2) For the purposes of subsection (1), the persons are as follows:
- (a) the Guardian-in-Adoption;
  - (b) any relevant person of a protected person who is below 21 years of age and in respect of whom no adoption order has been made and no adoption proceedings are pending;
  - (c) the adoptive parent of a protected person who is below 21 years of age;
  - (d) a protected person who has attained 21 years of age.
- (3) The court may make an order under subsection (1) even if —
- (a) the application is not served on the person against whom the order is to be made (called in this section the respondent) or is not served on the respondent within a reasonable time before the hearing of the application; or

- (b) when the application has been served on the respondent — the respondent does not appear at the hearing of the application,

if the court is satisfied, on a balance of probabilities, that the protection of the privacy of the protected person that will be achieved by making the order outweighs the potential detriment to the respondent by not being heard.

(4) To avoid doubt, the court may make an order under subsection (1) regardless of whether the respondent or any other person has been convicted of an offence under section 48(4) in relation to the information or picture mentioned in subsection (1).

## PART 6

### REGULATION OF ADOPTION PRACTICES AND PROCESSES

#### **Extra-territorial application of this Part**

**50.**—(1) Unless otherwise provided, the provisions of this Part have effect, in relation to any person, whatever the person's nationality or citizenship, outside as well as within Singapore.

(2) Where an offence under this Part is committed by any person in any place outside Singapore, the person may be dealt with as if the offence had been committed within Singapore.

#### **Restriction on publication or broadcast of information or pictures of children for adoption, etc.**

**51.**—(1) This section applies to the publication or broadcast of any information or picture that identifies a child, or is likely to lead to the identification of a child, where —

- (a) the child is in Singapore;
- (b) the intended audience or recipients of the information or picture is or are predominantly in Singapore; or
- (c) the publication or broadcast is by an adoption agency.

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(2) Except with the prior approval of the Guardian-in-Adoption, a person must not, in the course of doing any of the following, publish or broadcast any information or picture that identifies any child or is likely to lead to the identification of any child:

- (a) communicating that a relevant person of a child desires to cause the child to be adopted;
- (b) advertising or promoting any service of making arrangements for or on behalf of another person for the adoption of a child by that other person;
- (c) making arrangements for or on behalf of another person for the adoption of a child by that other person.

(3) Subsection (2) does not apply in relation to any information or picture broadcast by a person (*A*) to any other person (*B*) who has communicated to *A* that *B* desires to adopt a child if the information or picture —

- (a) is broadcast upon *B*'s request; and
- (b) is broadcast through such means and with such safeguards as to cause the information or picture to be accessible only by *B* (and any other person in *B*'s position).

(4) If subsection (3) applies and *B* publishes or broadcasts the information or picture broadcast by *A*, *B* shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

(5) If any information or picture is published or broadcast in contravention of subsection (2) —

- (a) in the case of the publication of any information or picture as part of a newspaper or periodical publication — every proprietor, editor, publisher or distributor of the newspaper or periodical publication;
- (b) in the case of the publication of any information or picture otherwise than as part of a newspaper or periodical publication — every person who publishes or distributes it; or

- (c) in the case of the broadcast of any information or picture —
- (i) every person who broadcasts the information or picture;
  - (ii) every person who transmits or provides the programme in which the information or picture is broadcast; and
  - (iii) every person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication,

shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000 or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

(6) The court may, in addition to any punishment mentioned in subsection (4) or (5), order a person to do any one or more of the following:

- (a) remove the publication or stop the broadcast, of any information or picture that is in contravention of subsection (2) or (4);
- (b) remove the programme in which the information or picture that is broadcast in contravention of subsection (2) or (4) is broadcast;
- (c) delete the information or picture that is published or broadcast in contravention of subsection (2) or (4);
- (d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of subsection (2) or (4) is no longer available on or through the Internet.

### **Order to remove publication or broadcast in contravention of section 51**

**52.**—(1) A court may, on the application of any person, order a person to do any or more of the following:

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- (a) remove the publication, or stop the broadcast, of any information or picture that is in contravention of section 51(2) or (4);
  - (b) remove the programme in which the information or picture that is broadcast in contravention of section 51(2) or (4) is broadcast;
  - (c) delete the information or picture that is published or broadcast in contravention of section 51(2) or (4);
  - (d) take all reasonable steps to ensure that the information or picture that is published or broadcast in contravention of section 51(2) or (4) is no longer available on or through the Internet.
- (2) The court may make an order under subsection (1) even if —
- (a) the application is not served on the person against whom the order is to be made (called in this section the respondent) or is not served on the respondent within a reasonable time before the hearing of the application; or
  - (b) when the application has been served on the respondent — the respondent does not appear at the hearing of the application,

if the court is satisfied, on a balance of probabilities, that the order is necessary for the welfare of the child concerned.

(3) To avoid doubt, the court may make an order under subsection (1) —

- (a) regardless of whether the respondent or any other person has been convicted of an offence under section 51(4) or (5) in relation to the information or picture mentioned in subsection (1); and
- (b) regardless of whether the information or picture mentioned in subsection (1) is published or broadcast before, on or after the date of commencement of this section.

**Restricted payments to be sanctioned by court**

**53.**—(1) This section applies to any payment or other reward in consideration of the adoption of a child or for any adoption-related service, that before, on or after the date of commencement of this section was or is —

- (a) made or given directly or indirectly through one or more intermediaries, or agreed to be made or given directly or indirectly through one or more intermediaries, by the joint applicants (or either of them) or sole applicant of an adoption application to any person; or
- (b) received directly or indirectly through one or more intermediaries, or agreed to be received directly or indirectly through one or more intermediaries, by the joint applicants (or either of them) or sole applicant of an adoption application from any person,

regardless of whether the adoption application has been made by the joint applicants or sole applicant (as the case may be) at the time that the payment or reward was made, given or received or agreed to be made, given or received.

(2) Every payment or other reward to which subsection (1) applies, and every agreement for such payment or other reward, is void and unenforceable unless —

- (a) the payment, reward or agreement is sanctioned by the court; or
- (b) the adoption application in question is withdrawn or struck out.

(3) An application for the sanction of the court mentioned in subsection (2)(a) must be made by the joint applicants or sole applicant (as the case may be) at the time that the adoption application is made.

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**Publication of amounts to be paid to or through adoption agencies, etc.**

**54.—**(1) Every adoption agency must make publicly available a list of the following information on payments or other rewards to be made or given by any person to or through the adoption agency:

- (a) the amount of every payment in consideration of the adoption of a child or for an adoption-related service;
- (b) the nature of every reward (other than a payment) to be given in consideration of the adoption of a child or for an adoption-related service;
- (c) a reasonable estimate of the monetary value of every reward (if quantifiable) mentioned in paragraph (b).

(2) An adoption agency must list the information required under subsection (1) in the prescribed format and in the prescribed itemised components.

(3) An adoption agency must not require a person to make or give any payment or other reward in consideration of an adoption or for any adoption-related service (whether to the adoption agency or another person) that is not listed at the relevant time by the adoption agency as required under subsection (1).

(4) Any adoption agency which, without reasonable excuse, contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) in the case of a second or subsequent conviction — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) An adoption agency commits an offence under subsection (4) regardless of whether the court has sanctioned the payment or other reward under section 53.

(6) In this section, “relevant time”, in relation to a payment or other reward, means the time at which the contract (whether express or

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implied) under which the payment or reward is to be made or given is entered into.

### **Prohibition against payments and rewards for non-permitted purposes**

**55.**—(1) A person must not (directly or indirectly through one or more intermediaries) make, give, receive or agree to make, give or receive any payment or other reward in consideration of an adoption in Singapore of a child or for any adoption-related service in connection with the adoption or proposed adoption of a child, unless the payment or other reward is permitted under subsection (2) or approved by the Guardian-in-Adoption in any particular case.

(2) The following payments and rewards are permitted for the purposes of this section:

- (a) any payment to an authorised adoption agency for any one or more of the following adoption-related services:
  - (i) the conduct of a pre-adoption briefing described in section 12;
  - (ii) the conduct of a disclosure of adoptive status briefing described in section 13;
  - (iii) the conduct of any assessment by the authorised adoption agency for the purposes of preparing an ASA;
- (b) any payment to defray —
  - (i) any cost related to the necessary care of a biological mother and her child provided in connection with, and before or after, the delivery of the child;
  - (ii) any medical expenses incurred for the delivery of the child;
  - (iii) the cost of satisfying the subsistence needs of the child, including any medical expenses incurred for medical services rendered to the child;
  - (iv) the cost of any caregiver engaged to care for the child;



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- (v) the cost of any medical assessment of any of the following persons:
    - (A) any person who desires to adopt a child;
    - (B) any biological parent of the child;
    - (C) the child;
  - (vi) any traveling expenses or cost of accommodation incurred for the transfer of the physical custody of the child to a person who desires to adopt a child; or
  - (vii) any administration, legal or application fees incurred (whether in or outside Singapore) in the course of obtaining immigration facilities, registering or re-registering the child's birth or obtaining an adoption order (whether in or outside Singapore) in respect of the child;
- (c) any other payment or other reward that may be prescribed by the regulations.
- (3) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —
- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or
  - (b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

**Use of fraud, duress, undue influence or other improper means to obtain consent to adoption, etc.**

**56.—**(1) A person must not, whether or not an adoption application in respect of a child has been made, do any thing fraudulently to induce, or use any duress, undue influence or other improper means with the knowledge that it will induce or is likely to induce, any of the following:

- (a) the agreement of a relevant person of a child to offer or refrain from offering the child for adoption in Singapore;

- (b) the transfer of the physical custody of a child, or the custody or care and control of a child, with a view to the child's adoption in Singapore;
  - (c) the consent of a relevant person of a child required under section 26 or the revocation of the consent.
- (2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —
- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or
  - (b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.
- (3) Where any consent of a relevant person of a child is obtained in contravention of subsection (1)(c) (whether or not any person has been convicted of an offence under subsection (2) in relation to the consent), the court may make a declaration that the consent is void.
- (4) Nothing in subsection (3) affects the validity of any adoption order or interim order that has been made before the court makes a declaration mentioned in that subsection.

### **Restriction on placement of child, etc.**

57.—(1) Unless the requirements in subsection (3) are met, a potential adopter must not —

- (a) reside with a child for whom an adoptive parent is being sought; or
  - (b) spend any amount of time with a child for whom an adoptive parent is being sought for the purpose of considering whether to adopt the child.
- (2) An adoption agency, a relevant person of a child for whom an adoptive parent is being sought, any employee or contractor of an adoption agency, or any person assisting a relevant person to care for the child, must not transfer the physical custody of the child to a potential adopter who does not meet the requirements in subsection (3), for the purpose of enabling the potential adopter to —

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- (a) reside with the child; or
  - (b) spend any amount of time with the child for the purpose of considering whether to adopt the child.
- (3) For the purposes of subsections (1) and (2), the requirements are as follows:
- (a) in a case where the child is a citizen or permanent resident of Singapore — the potential adopter holds a valid and favourable ASA described in section 14;
  - (b) in any other case —
    - (i) the potential adopter holds a valid and favourable ASA described in section 14; and
    - (ii) either —
      - (A) the child is authorised or permitted to remain in Singapore by virtue of a dependant’s pass issued by the Controller of Immigration for the purposes of adoption upon an application by the potential adopter; or
      - (B) an in-principle approval of an application by the potential adopter for the pass mentioned in sub-paragraph (A) has been granted by the Controller of Immigration in respect of the child.
- (4) Subsections (1) and (2) do not apply —
- (a) where the potential adopter or the spouse of the potential adopter and the child are within the prohibited degrees of consanguinity;
  - (b) where the child is a stepson or stepdaughter of the potential adopter;
  - (c) where the potential adopter is a care-giver to whom the child is committed under a voluntary care agreement under the Children and Young Persons Act 1993 or any order under section 54(1)(b) or 56(2)(a), or section 56(2)(a) as applied by section 57, of that Act;

- (d) in any other circumstances as may be prescribed by the regulations; or
- (e) in any particular case permitted by the Guardian-in-Adoption.
- (5) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —
- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.
- (6) Where a potential adopter is residing with a child for whom an adoptive parent is being sought, the requirements in subsection (3) are not met and the exceptions in subsection (4) do not apply, the court may, upon the application of the Guardian-in-Adoption, order the potential adopter to deliver the child to the physical custody of a suitable person recommended by the Guardian-in-Adoption within the time specified by the court.
- (7) To avoid doubt, the court may make an order in relation to a child under subsection (6) regardless of whether any person has been convicted of any offence under subsection (5) in relation to the child.
- (8) For the purposes of enforcing an order under subsection (6), the court may direct the bailiff to seize the child from the physical custody of any person or from any place and deliver the child to the physical custody of the suitable person mentioned in that subsection.
- (9) Where an order under subsection (6) is made, the court may also make any additional order as the court deems fit to facilitate the change in the physical custody of the child.
- (10) Any person who, without reasonable excuse, fails to comply with an order under subsection (6) shall be guilty of an offence and shall be liable on conviction —
- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; or

- (b) in the case of a second or subsequent conviction — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 years or to both.

(11) In this section and section 58 —

“care-giver”, in relation to a child for whom an adoptive parent is being sought, has the meaning in relation to a child or young person given by section 2(1) of the Children and Young Persons Act 1993;

“potential adopter” means any individual who desires to adopt a child and has —

- (a) attended a pre-adoption briefing described in section 12;
- (b) made an application to an authorised adoption agency for an ASA;
- (c) communicated to an adoption agency that the individual desires to adopt a child;
- (d) communicated to a relevant person of a child that the individual desires to adopt the child;
- (e) made an application for a dependant’s pass to be issued by the Controller of Immigration for the purposes of adoption; or
- (f) made an adoption application.

### **Non-application of section 57 to transitional cases**

**58.** Without affecting section 57(4), nothing in section 57 applies where —

- (a) the potential adopter is residing with the child in question before the date of commencement of this section;
- (b) the potential adopter starts spending any amount of time with the child in question for the purpose of considering whether to adopt the child, before the date of commencement of this section;

- (c) the potential adopter has made an adoption application under the repealed Act in respect of the child in question; or
- (d) the potential adopter holds (whether jointly with his or her spouse or solely) a valid and favourable HSR; and
  - (i) the child in question is a citizen or permanent resident of Singapore;
  - (ii) the child in question is authorised or permitted to remain in Singapore by virtue of a dependant's pass issued by the Controller of Immigration for the purposes of adoption upon an application by the potential adopter; or
  - (iii) an in-principle approval of an application by the potential adopter for the pass mentioned in sub-paragraph (ii) has been granted by the Controller of Immigration in respect of the child in question.

**Offence of providing false information, etc., in connection with ASA or Guardian-in-Adoption's affidavit**

**59.—(1) If —**

- (a) a person provides a document or makes a statement (whether orally, in writing or any other way) or gives information to —
  - (i) the Guardian-in-Adoption —
    - (A) in connection with the discharge of the functions or duties, or the exercise of the powers, of the Guardian-in-Adoption under section 15, 17, 19, 27 or 29;
    - (B) pursuant to a duty imposed on that person under section 22(2) or 30 to notify the Guardian-in-Adoption of a material change in circumstances; or

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- (C) pursuant to an order of the court under section 34(1); or
  - (ii) an authorised adoption agency —
    - (A) in connection with the discharge of the functions or duties, or the exercise of the powers, of the authorised adoption agency under section 14, 15, 19 or 29; or
    - (B) pursuant to a duty imposed on that person under section 22(1) or (2) to notify the authorised adoption agency of a material change in circumstances; and
  - (b) the document, statement or information is false or misleading, or the document, statement or information omits a matter or thing without which the document, statement or information (as the case may be) is false or misleading,

the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Subsection (1) does not apply if the document, statement or information is not false or misleading in a material particular, or if the document, statement or information did not omit any matter or thing without which the document, statement or information (as the case may be) is false or misleading in a material particular.

(3) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person has taken all reasonable steps to ensure the authenticity or accuracy of the document, statement or information.

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**Duty to report offences to Guardian-in-Adoption**

**60.**—(1) Any of the following persons who knows or has reason to suspect that an offence under this Part (except this section) or section 43, 48 or 65 has been committed in connection with the adoption or proposed adoption of a child, must report to the Guardian-in-Adoption or an authorised officer as soon as practicable the facts and circumstances on which the person's knowledge or suspicion is based:

- (a) an adoption agency or any employee or contractor of an adoption agency;
- (b) a relevant person of the child;
- (c) an advocate or solicitor who is acting for any person in relation to an adoption application in respect of the child;
- (d) any employee of the advocate or solicitor mentioned in paragraph (c) or of a law corporation, law firm or limited liability law partnership who is assisting the advocate or solicitor in the matter mentioned in that paragraph.

(2) A person who has engaged the services of an adoption agency for the proposed adoption of any child and who knows or has reason to suspect that an offence under this Part (except this section) or section 43, 48 or 65 has been committed —

- (a) by the adoption agency or any employee or contractor of the adoption agency; or
- (b) in connection with the child that the person desires to adopt,

must report to the Guardian-in-Adoption or an authorised officer as soon as practicable the facts and circumstances on which the person's knowledge or suspicion is based.

(3) Any person who fails to comply with subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both; or



(b) in the case of a second or subsequent conviction — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) In proceedings against an individual for an offence under subsection (3), it is not a defence for the individual to rely on —

(a) the common law privilege against self-incrimination or exposure to the imposition of a penalty; or

(b) any rule of law relating to legal professional privilege or any other privilege, or the public interest.

(5) However, any information in a report made by an individual under subsection (1) or (2) is not admissible in evidence against the individual in any criminal proceeding other than a proceeding for an offence under section 59(1) or 65(1) or section 177 of the Penal Code 1871, if the information might in fact tend to incriminate the individual.

(6) In this section, “advocate and solicitor”, “law corporation”, “law firm” and “limited liability law partnership” have the meanings given by section 2(1) of the Legal Profession Act 1966.

## PART 7

### ENFORCEMENT

#### **Powers of entry, etc., for enforcement purpose**

**61.**—(1) The Guardian-in-Adoption or an authorised officer may exercise all or any of the powers in this section for the purpose of investigating any offence under this Act.

(2) The Guardian-in-Adoption or an authorised officer may —

(a) at any time of the day or night without notice, enter, inspect and search any premises if the Guardian-in-Adoption or authorised officer reasonably believes that evidence of the commission of an offence under this Act can be found in those premises;

- (b) photograph or film, or make a record or sketches of, any part of the premises mentioned in paragraph (a), or any person or thing at the premises;
- (c) inspect and make copies of, or take extracts from, any document or thing which is in the possession or under the control of any person for the purpose mentioned in subsection (1) even though the prior consent of the person has not been obtained;
- (d) seize any document or thing found in the premises mentioned in paragraph (a) which the Guardian-in-Adoption or authorised officer reasonably believes to be the subject matter of or to be connected with the commission of an offence under this Act;
- (e) serve a written notice on any person whom the Guardian-in-Adoption or authorised officer reasonably believes to be in possession of any document or thing relevant to the investigation of an offence under this Act, requiring that person —
  - (i) to produce without charge that document or thing at the time and place stated in the notice; or
  - (ii) to give the Guardian-in-Adoption or authorised officer, without charge, access to that document or thing;
- (f) serve a written notice on any person within the limits of Singapore and who appears to be acquainted with any of the facts or circumstances of the matter under investigation, requiring that person to attend before the Guardian-in-Adoption or authorised officer at the time and place stated in the notice;
- (g) require any person whom the Guardian-in-Adoption or authorised officer reasonably believes to be acquainted with any of the facts or circumstances of the matter under investigation, to answer any question to the best of the person's knowledge, information and belief, immediately

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or at the place and time specified in a written notice served on that person; and

- (h) take any step which appears to be necessary to preserve or prevent interference with any document or thing which the Guardian-in-Adoption or authorised officer considers to be the subject matter of or to be connected with the commission of an offence under this Act.

(3) For the purposes of subsection (2)(c), (d), (e) and (h), if any document or information required by the Guardian-in-Adoption or authorised officer is kept in electronic form —

- (a) the power of the Guardian-in-Adoption or authorised officer to inspect the document or obtain information includes the power to —

(i) access any computer or other equipment (including a mobile telephone) in which the document or material is stored; and

(ii) require any person having charge of, or otherwise concerned with the operation of, the computer or equipment to provide assistance in gaining access to the computer or other equipment; and

- (b) the power of the Guardian-in-Adoption or authorised officer to seize the document includes the power to —

(i) make copies of the document in legible or electronic form; and

(ii) transfer the information from the document or material to a disc, tape or other storage device.

(4) If the Guardian-in-Adoption or authorised officer under subsection (3)(b) is unable to make copies of the document or transfer the document, he or she may —

- (a) seize the computer or other equipment (including a mobile telephone) in which the document or information is stored as evidence in proceedings for an offence under this Act; and

(b) require any person having charge of, or otherwise concerned with the operation of, the computer or equipment to disclose any password or access code for gaining access, or to do any other thing to enable the Guardian-in-Adoption or authorised officer to gain access, to the document or information held in the computer or equipment.

(5) If free entry or access to the premises cannot be obtained under subsection (2)(a), the Guardian-in-Adoption or authorised officer may, with any assistance that he or she considers necessary, break open any window, lock or fastener, or use any other reasonable means to gain entry or access into the premises.

(6) If any person fails to comply with a written notice served on the person under subsection (2)(e) or (f), the Guardian-in-Adoption or authorised officer may report the failure to a Magistrate who may in the Magistrate's discretion then issue a warrant ordering the person to comply with the written notice.

(7) Any person examined under subsection (2)(g) is bound to state truly what the person knows of the facts and circumstances concerning matters under this Act, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture.

(8) A statement made by a person examined under subsection (2)(g) must —

- (a) be reduced to writing;
- (b) be read over to the person;
- (c) if the person does not understand English, be interpreted in a language that the person understands; and
- (d) after correction (if necessary), be signed by the person.

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## Equipment

**62.** The Guardian-in-Adoption or an authorised officer may carry or have in his or her possession or under his or her control any truncheon, handcuffs or other similar means of restraint for the purposes of executing his or her duties, or exercising his or her powers, under this Part.

## Disposal of documents or thing

**63.—**(1) Any document or thing taken into possession or seized under this Part must —

- (a) where the document or thing is produced in any criminal trial, be dealt with in accordance with section 364 of the Criminal Procedure Code 2010; or
- (b) in any other case, be returned to the owner or reported to a Magistrate.

(2) Where the report of any document or thing is made to a Magistrate under subsection (1)(b), the Magistrate may order the document or thing —

- (a) to be forfeited; or
- (b) to be disposed of in any manner that the Magistrate thinks fit.

(3) Nothing in this section is to be taken to affect any right to retain or dispose of any property which may exist in law apart from this section.

## Offence of obstruction

**64.** A person who refuses to give access to, or obstructs, hinders or delays the Guardian-in-Adoption or an authorised officer in the discharge of his or her duties, or the exercise of his or her powers, under this Part shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both; or

- (b) in the case of a second or subsequent conviction — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

**Offence of providing false information, etc., in connection with this Part**

**65.—(1)** If —

- (a) a person provides a document or makes a statement (whether orally, in writing or any other way) or gives information to the Guardian-in-Adoption or an authorised officer in connection with the discharge of the duties, or the exercise of the powers, of the Guardian-in-Adoption or authorised officer under this Part; and
- (b) the document, statement or information is false or misleading, or the document, statement or information omits a matter or thing without which the document, statement or information is false or misleading,

the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Subsection (1) does not apply if the document, statement or information is not false or misleading in a material particular, or if the document, statement or information did not omit any matter or thing without which the document, statement or information is false or misleading in a material particular.

(3) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person has taken all reasonable steps to ensure the authenticity or accuracy of the document, statement or information.

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**Notice to attend court**

**66.**—(1) Where it appears to the Guardian-in-Adoption or any authorised officer that any person has committed an offence under this Act, the Guardian-in-Adoption or authorised officer may serve on the person a written notice, in such form as may be prescribed by the regulations, requiring the person to attend the court described, at the time and on the date specified in the notice.

(2) The Guardian-in-Adoption or authorised officer must, if so required by a court, produce a copy of the notice mentioned in subsection (1) to the court.

(3) On an accused person appearing before a court pursuant to a notice, the court is to take cognizance of the offence alleged and must proceed as though the accused person were produced before the court under section 153 of the Criminal Procedure Code 2010.

(4) If a person on whom a notice has been served fails to appear before a court in accordance with the notice, the court must then issue a warrant for arrest of that person.

(5) Upon a person arrested pursuant to a warrant issued under subsection (4) being produced before a court, the court must —

- (a) proceed as though the person were produced under section 153 of the Criminal Procedure Code 2010; and
- (b) at the conclusion of the proceedings, call upon the person to show cause why he or she should not be punished for failing to attend in compliance with the notice served on him or her and, if cause is not shown, may order him or her to pay such fine not exceeding \$2,000 as the court thinks fit or may commit him or her to prison for a term not exceeding 2 months.

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PART 8  
GENERAL PROVISIONS

**Offences by corporations, unincorporated associations or partnerships**

**67.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation, an unincorporated association or a partnership in relation to a particular conduct, the following is evidence that the corporation, unincorporated association or partnership (as the case may be) had that state of mind:

- (a) in the case of a corporation, evidence that —
  - (i) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and
  - (ii) the officer, employee or agent had that state of mind;
- (b) in the case of an unincorporated association or a partnership, evidence that —
  - (i) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his or her actual or apparent authority; and
  - (ii) the employee or agent had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

- (a) who is —
  - (i) an officer of the corporation; or
  - (ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and



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(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or
- (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) Where an unincorporated association or a partnership commits an offence under this Act, a person —

(a) who is —

- (i) an officer of the unincorporated association or a member of its governing body;
- (ii) a partner in the partnership; or
- (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership in relation to the commission of the offence; and

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or
- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or

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partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(4) A person mentioned in subsection (2) or (3) may rely on a defence that would be available to the corporation, unincorporated association or partnership (as the case may be) if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation, unincorporated association or partnership (as the case may be) would bear.

(5) To avoid doubt, subsection (2) or (3) does not affect the liability of a corporation, an unincorporated association or a partnership (as the case may be) for an offence under this Act, and applies whether or not the corporation, unincorporated association or partnership (as the case may be) is convicted of the offence.

(6) To avoid doubt, this section does not affect the application of —

(a) Chapters 5 and 5A of the Penal Code 1871; or

(b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(7) Regulations under section 75 may provide for the application of any provision of this section, with any modifications that the Minister considers appropriate, to any corporation, unincorporated association or partnership formed or recognised under the law of a territory outside Singapore.

(8) In this section —

“corporation” includes a limited liability partnership;

“officer” —

(a) in relation to a corporation — means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

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- (i) any person purporting to act in any such capacity; and
  - (ii) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation; and
- (b) in relation to an unincorporated association (other than a partnership) — means the president, the secretary, or any member of the committee of the unincorporated association, and includes —
- (i) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and
  - (ii) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

### **Composition of offences**

**68.—**(1) The Guardian-in-Adoption or an authorised officer may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

- (a) one half of the amount of the maximum fine that is prescribed for the offence;
- (b) \$5,000.

(2) On payment of the sum of money under subsection (1), no further proceedings are to be taken against that person in respect of the offence.

### **Contempt of court orders under this Act**

**69.**—(1) Subject to subsection (2), sections 43(5) and 57(10) do not affect the powers of the court in relation to the punishment for a contempt of court.

(2) Where a person is convicted of an offence under section 43(5) or 57(10) in respect of any non-compliance with an order, that non-compliance is not punishable as a contempt of court.

(3) A person cannot be convicted of an offence under section 43(5) or 57(10) in respect of any non-compliance with an order which has been punished as a contempt of court.

(4) The Guardian-in-Adoption or an authorised officer may apply for a committal order for contempt of court (where applicable) in respect of the non-compliance with an order of a court under this Act.

### **Service of documents**

**70.**—(1) A document that is permitted or required by or under this Act to be served on a person may be served as described in this section.

(2) A document may be served on an individual —

- (a) by giving it to the individual personally;
- (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;
- (c) by leaving it at the individual's residential address with an adult person apparently residing there, or at the individual's business address with an adult person apparently employed there;
- (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;

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- (e) by sending it by fax to the fax number given by the individual as the fax number for the service of documents under this Act; or
- (f) by sending it by email to the individual's email address.
- (3) A document may be served on a partnership (other than a limited liability partnership) —
- (a) by giving it to any partner or other similar officer of the partnership;
- (b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;
- (c) by sending it by fax to the fax number used at the partnership's business address; or
- (d) by sending it by email to the partnership's email address.
- (4) A document may be served on a body corporate (including a limited liability partnership) or an unincorporated association —
- (a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association or the limited liability partnership's manager;
- (b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;
- (c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; or
- (d) by sending it by email to the body corporate's or unincorporated association's email address.
- (5) Service of a document on a person under this section takes effect —
- (a) if the document is sent by fax and a notification of successful transmission is received, on the day of the transmission;

- (b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person; and
- (c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).

(6) A document may be served on a person under this Act by email only with that person's prior written consent.

(7) This section does not apply to documents to be served in proceedings in court.

(8) In this section —

“business address” means —

- (a) in the case of an individual, the individual's usual or last known place of business in Singapore; and
- (b) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“email address” means the last email address given by the addressee concerned as the email address for the service of documents under this Act;

“residential address” means an individual's usual or last known place of residence in Singapore.

### **Disclosure of information to and by Guardian-in-Adoption or authorised adoption agency, etc.**

**71.—**(1) Subsections (2) to (5) are subject to any express restriction imposed by or under any other written law.

(2) The Guardian-in-Adoption may disclose to an authorised adoption agency any information received by the Guardian-in-Adoption under or for the purposes of this Act, where the disclosure is for the purpose of enabling or assisting the authorised adoption agency to perform a function or discharge a duty of the authorised adoption agency under this Act.

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(3) An authorised adoption agency may disclose to the Guardian-in-Adoption any information received by the authorised adoption agency under or for the purposes of this Act, where the disclosure is for the purpose of enabling or assisting the Guardian-in-Adoption to perform a function or discharge a duty of the Guardian-in-Adoption under this Act.

(4) A body or person specified in subsection (6) may disclose to the Guardian-in-Adoption or an authorised adoption agency any information, where the disclosure is for —

- (a) the purpose of enabling or assisting the Guardian-in-Adoption or authorised adoption agency (as the case may be) to perform a function or discharge a duty of the Guardian-in-Adoption or authorised adoption agency (as the case may be) under this Act; or
- (b) any purpose connected with the performance of a function or the discharge of a duty of the other body or person under any written law.

(5) The Guardian-in-Adoption or an authorised adoption agency may disclose to a body or person specified in subsection (6) any information received by the Guardian-in-Adoption or authorised adoption agency (as the case may be) under or for the purposes of this Act, where the disclosure is for —

- (a) the purpose of enabling or assisting the body or person to perform a function or discharge a duty of that body or person (as the case may be) under or for the purposes of any written law; or
- (b) any purpose connected with the performance of any of the functions or the discharge of any of the duties of the Guardian-in-Adoption or authorised adoption agency (as the case may be) under this Act.

(6) The bodies and persons for the purposes of subsections (4) and (5) are as follows:

- (a) any Government department;
- (b) any statutory body;

- (c) any authorised officer;
- (d) any police officer;
- (e) any other body or person that may be prescribed by the regulations.

(7) Nothing in this section is to be construed as affecting any power of disclosure apart from this section.

### **Protection of persons giving information to authorities**

**72.**—(1) Any person who knows or has reason to suspect that an offence under this Act has been committed may make a notification to the Guardian-in-Adoption or an authorised officer of the facts and circumstances on which the person’s knowledge or suspicion is based.

(2) Any person who makes a notification under subsection (1) or a report under section 60(1) or (2) —

- (a) cannot, by virtue of doing so, be held in any proceedings before any court or tribunal or in any other respect to have breached any restriction on disclosure imposed by any rule of law, contract or rule of professional etiquette or ethics, or to have departed from any accepted form of professional conduct; and
- (b) insofar as the person had acted in good faith, incurs no civil or criminal liability for making the notification or report or providing any information contained in the notification or report.

(3) Any person appearing as a witness in any proceedings in any court or tribunal before a person authorised by law to hear evidence cannot be compelled —

- (a) to disclose the identity of any person who has made a notification under subsection (1) or a report under section 60(1) or (2), or any information likely to lead to the disclosure of the identity of the person; or
- (b) to produce any report or document (or any part of a report or document) which identifies, or is likely to identify, any



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person who has made a notification under subsection (1) or a report under section 60(1) or (2).

### **Protection from personal liability**

**73.**—(1) Subsection (2) applies where an act is done or an omission is made —

- (a) by the Guardian-in-Adoption, any authorised adoption agency, any authorised officer, or any person acting under the direction of the Guardian-in-Adoption or an authorised adoption agency —
  - (i) in the exercise or purported exercise of any function of the Guardian-in-Adoption or any authorised adoption agency or authorised officer under this Act; or
  - (ii) in compliance or purported compliance with —
    - (A) any direction of the Guardian-in-Adoption or any authorised adoption agency under this Act; or
    - (B) an order made by a court under this Act;
- (b) by the Director-General or any protector in the course of preparing or providing a report requested under section 27(3);
- (c) by any person in the course of conducting mediation, counselling, psychotherapy or other assessment, programme or treatment or other activity under section 35 or 45; or
- (d) by any person (being a person appointed by a court or pursuant to an order of a court) in compliance or purported compliance with an order made by a court under section 43 or 57.

(2) No liability shall lie personally against the person who did the act or made the omission if the act was done or the omission was made in good faith and with reasonable care.

(3) No liability shall lie personally against —

- (a) any relative or member of a household mentioned in section 19(2)(b), for providing any information or document to the Guardian-in-Adoption or an authorised adoption agency under that provision;
- (b) any person mentioned in section 19(2)(c), for providing any information or document to the Guardian-in-Adoption or an authorised adoption agency under that provision;
- (c) any relative or member of a household mentioned in section 29(1)(b), for providing any information to the Guardian-in-Adoption or an authorised adoption agency under that provision; or
- (d) any person mentioned in section 29(1)(d), for providing any information to the Guardian-in-Adoption or an authorised adoption agency under that provision,

in breach of any rule of law relating to the confidentiality of such information.

(4) In this section, a reference to the exercise of a function includes a reference to the exercise of a power or the performance of a duty.

### **Family Justice Rules**

**74.**—(1) The Family Justice Rules Committee constituted under section 46(1) of the Family Justice Act 2014 may make Family Justice Rules —

- (a) to regulate and prescribe the procedure and practice to be followed in respect of any application to a court under this Act; and
- (b) to provide for any matter relating to such procedure or practice.

(2) The Family Justice Rules may, instead of providing for any matter, refer to any provision made or to be made about that matter by practice directions issued for the time being by the registrar of the Family Justice Courts.

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(3) All Family Justice Rules made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

### **Power to make regulations**

75.—(1) The Minister may make regulations —

- (a) to prescribe anything that is required or permitted to be prescribed by this Act; or
- (b) generally for the purposes of this Act.

(2) Without limiting subsection (1), regulations may —

- (a) prescribe the forms for the purposes of this Act;
- (b) prescribe the fees payable in respect of any application or matter under this Act;
- (c) provide for the manner in which prescribed fees are to be paid;
- (d) provide for the waiver, refund or remission (whether in whole or in part) of any prescribed fee;
- (e) provide for the manner of submission of documents to the Guardian-in-Adoption;
- (f) provide for the manner of making any notification under the Act;
- (g) prescribe that any act or omission in contravention of any provision of regulations made under this Act shall be an offence punishable with a fine not exceeding \$4,000 for the offence; and
- (h) prescribe offences that may be compounded.

(3) The powers conferred by this section do not extend to any matter for which Family Justice Rules may be made under section 74.

### **Repeal of Adoption of Children Act 1939**

76.—(1) The Adoption of Children Act 1939 is repealed.

(2) To avoid doubt, the repeal of the Adoption of Children Act 1939 does not affect any order made or anything done under that Act.

## PART 9

### RELATED AND CONSEQUENTIAL AMENDMENTS AND SAVING AND TRANSITIONAL PROVISIONS

#### **Consequential amendment to Child Development Co-Savings Act 2001**

77. Section 2(1) of the Child Development Co-Savings Act 2001 is amended by deleting the words “Adoption of Children Act 1939” in the definition of “dependant’s pass” and substituting the words “Adoption of Children Act 2022 or any corresponding previous written law”.

#### **Related amendment to Children and Young Persons Act 1993**

78. Section 112 of the Children and Young Persons Act 1993 is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) Subsection (1) does not apply in relation to any proceedings in court arising from an adoption application under the Adoption of Children Act 2022, including any appeal against any decision made by the court on the adoption application.”.

#### **Consequential amendment to Civil Law Act 1909**

79. Section 20(10) of the Civil Law Act 1909 is amended by deleting the words “Adoption of Children Act 1939” and substituting the words “Adoption of Children Act 2022 or any corresponding previous written law”.

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**Consequential amendment to Family Justice Act 2014**

**80.** Section 2(1) of the Family Justice Act 2014 is amended by deleting the words “Adoption of Children Act 1939” in paragraph (b) of the definition of “family proceedings” and substituting the words “Adoption of Children Act 2022”.

**Related and consequential amendment to Mental Capacity Act 2008**

**81.** Section 26 of the Mental Capacity Act 2008 is amended by deleting paragraph (d) and substituting the following paragraph:

“(d) consenting or revoking consent to the making of an adoption order under the Adoption of Children Act 2022 or any corresponding previous written law;”.

**Consequential amendments to Registration of Births and Deaths Act 2021**

**82.** Section 14(1) of the Registration of Births and Deaths Act 2021 is amended —

- (a) by deleting the words “Adoption of Children Act 1939” and substituting the words “Adoption of Children Act 2022 or any corresponding previous written law”; and
- (b) by deleting the words “section 12(1) of that Act” and substituting the words “section 44(1) of the Adoption of Children Act 2022”.

**Related and consequential amendments to Women’s Charter 1961**

**83.** The Women’s Charter 1961 is amended —

- (a) by deleting the words “and has been or will be solemnised or made” in section 141(2) and substituting the words “, or has been or will be solemnised or made,”; and
- (b) by deleting the words “Adoption of Children Act 1939, or any enactment thereby repealed” in the definition of “parent” in section 145(4) and substituting the words

“Adoption of Children Act 2022 or any corresponding previous written law”.

### **Consequential amendment to Work Injury Compensation Act 2019**

**84.** Section 2 of the Work Injury Compensation Act 2019 is amended by deleting the definition of “adopted child” and substituting the following definition:

““adopted child”, in relation to a claimant, means any child —

- (a) who is adopted by the claimant under the Adoption of Children Act 2022 or any corresponding previous written law; or
- (b) whose adoption by the claimant is recognised by the law or consular authority of the place of nationality of the claimant or the child,

and “adoptive parent” has a corresponding meaning;”.

### **Saving and transitional provisions**

**85.—(1)** Despite section 76 —

- (a) the repealed Act (except section 12) continues to apply in relation to an adoption application, interim order or adoption order, made under the repealed Act before the date of commencement of section 76; and
- (b) any right of appeal accruing before, on or after the date of commencement of section 76 against any order or decision of the court under the repealed Act continues,

as if that Act had not been repealed.

(2) Despite section 80, the Family Justice Act 2014 applies to an adoption application, interim order or adoption order to which the repealed Act continues to apply under subsection (1), as if section 80 had not been enacted.

(3) Despite sections 74 and 76, every provision of the Family Justice Rules made under section 46 of the Family Justice Act 2014 for the purposes of section 10(1) of the repealed Act and in force

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immediately before the date of commencement of sections 74 and 76 continues in force, so far as the provision is not inconsistent with the provisions of this Act and until that provision is revoked.

(4) Every valid and favourable HSR issued before the date of commencement of section 76 continues to be valid for the period specified in the HSR or any further period granted by a duly authorised officer of the Ministry of Social and Family Development.

(5) Part 2 of this Act does not apply to an adoption application made that is supported by a valid and favourable HSR.

(6) Every reference to a “child” in this Act includes a reference to an “infant” in the repealed Act so far as the repealed Act continues to have effect under subsection (1) in any particular case.

(7) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

(8) Nothing in this section affects section 16 of the Interpretation Act 1965.

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