



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

ADOPTION ACT

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ADOPTION ACT

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ADOPTION ACT

CHAPTER A-4.1

1. Definitions

In this Act

- (a) “**adoption order**” means an order for the adoption of a child issued under section 38;
- (b) repealed by 2000(2nd),c.3,s.62;
- (c) “**applicant**” means a person applying to the court for an adoption order;
- (d) “**best interests of the child**” means the best interests of the child under the circumstances, having regard, in addition to all other relevant considerations, to
 - (i) the need of the child for continuing parental care and guidance,
 - (ii) the mental, emotional and physical health and level of development of the child including any special needs for care and treatment,
 - (iii) the views and preferences of the child, where such views and preferences can be reasonably ascertained,
 - (iv) the love, affection and ties that exist between the child and each person to whom the custody of the child is or might be entrusted,
 - (v) the capacity of the persons involved to properly discharge parental obligations,
 - (vi) the material, intellectual and spiritual well-being of the child,
 - (vii) the child’s cultural background,
 - (viii) the importance of family relationships in the life, growth and development of the child,
 - (ix) the importance of continuity in the child’s care and the possible effect on the child of disruption of that continuity,
 - (x) the effects on the child of delay in the disposition of the case;
- (e) “**child**” means a person who has been or is being adopted or placed;
- (f) “**court**” means the Family Section of the Supreme Court;
- (g) “**custody**” means the authority and responsibility for possessing the child physically and providing for the daily requirements related to life and development of the child;
- (h) “**Director**” means the Director of Child Protection appointed pursuant to the *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1 and includes a delegate of the Director;
- (i) “**guardian**” means a person lawfully vested with the function of taking decisions concerning the person of the child;
- (j) “**guardianship**” means the authority and responsibility for taking decisions concerning the person of the child, including such matters as residence, education, non-routine health care, legal proceedings;

- (k) “**license**” means a general authorization for making placements, issued to a person whose qualification to arrange placements and adoptions is recognized by the Director;
- (l) “**permit**” means an authorization issued, in accordance with such requirements as may be prescribed, to the birth parent or parents or guardian to make a particular placement where the birth parent or parents or guardian and prospective adoptive parent or parents directly make the arrangements together without intermediary;
- (m) “**place**” or “**make a placement**” means to transfer the custody of a child from one person to another where the purpose is, or may reasonably be expected to be, adoption;
- (n) “**resident**” means a person who is ordinarily resident in the province. *1992, c.1, s.1; 1995, c.1, s.1; 2000(2nd), c.3, s.62; 2008, c.20, s.72(1); 2010, c.28, s.33.*

2. Principles

This Act is to be administered with respect for the following principles:

- (a) there is a balance of rights and interests among the three parties in placement and adoption, the birth parent or parents, the child and the adoptive parent or parents, but the best interests of the child must be the paramount consideration;
- (b) decisions to place and to adopt a child must be made with clear information, full awareness of the implications and careful consideration, with the benefit of knowledgeable guidance;
- (c) there should be the opportunity for openness in adoption, but a participant’s choice of anonymity should be respected;
- (d) the Director must exercise standards and controls in order to protect the rights and interests of those involved in placements and adoptions;
- (e) reliable records of placements and adoptions must be maintained;
- (f) an adopted person has a right to non-identifying information concerning his or her background and heritage;
- (g) an adult adopted person’s desire to discover birth parentage and understand his or her identity should be accommodated if possible and if it does not infringe on the right of a birth parent to maintain anonymity. *1992, c.1, s.2.*

PLACEMENT

3. Who may place

No one may place a child, or act as an intermediary in or arrange the placement of a child, except

- (a) the Director of Child Protection; or
- (b) a person authorized by the Director in accordance with the regulations,

and no one may receive a placed child except from a person referred to in clause (a) or (b).
1992, c.1, s.3; 2000(2nd), c.3, s.62; 2010, c.28, s.33.



3.1 Temporary custody agreement

- (1) The Director may enter into an agreement in the prescribed form with a parent of a child transferring to the Director all of the rights of custody of the parent for the period specified in the agreement.

Temporary custody and guardianship agreement

- (2) The Director may enter into an agreement in the prescribed form with a parent of a child transferring to the Director all of the rights and obligations of the parent as custodian and guardian of the child for the period specified in the agreement.

Parent's consent

- (3) During the period of an agreement made under this section, the parent of the child to whom the agreement applies retains his or her right to give or withhold his or her consent to the adoption of the child.

More than one child

- (4) An agreement made under this section may apply to more than one child.

Period of agreement

- (5) The period of an agreement made under this section shall not exceed three months, but the period that the child is in the continuous custody or custody and guardianship of the Director may, subject to subsection (6), be extended by subsequent agreements made under this section.

Maximum period of custody

- (6) The maximum period that the Director may, pursuant to agreements made under this section, have the continuous custody of a child is six months.

Termination of agreement

- (7) Any party to an agreement made under this section may, at any time during the period of the agreement or any extension thereof, terminate the agreement by giving, in accordance with section 3.3, a notice of termination to the other parties at least three days before the effective date of the termination.

Return of child

- (8) After a notice of termination is given to the Director or a parent in accordance with subsection (7) and section 3.3, the Director shall, in accordance with the notice of termination, return the child to the parent in whose custody the child was at the time the agreement was made. *2004, c.25, s.1.*

3.2 Permanent custody and guardianship agreement

- (1) Subject to subsection (3), the Director may enter into a permanent custody and guardianship agreement in the prescribed form with the parent of a child transferring permanently the custody and guardianship of the child from the parent to the Director.

More than one child

- (2) An agreement made under this section may apply to more than one child.

Minimum age of child, parent must sign

- (3) Unless the court otherwise orders, no agreement made under this section is valid unless

- (a) each child who is a subject of the agreement is at least 14 days of age at the time the agreement is executed; and
- (b) each parent who has rights of custody and guardianship respecting a child who is a subject of the agreement has signed the agreement.

Effect of agreement

- (4) Where the Director has custody and guardianship of a child by reason of an agreement made under this section, all of the rights and obligations of a parent with respect to the child are extinguished and the Director has all rights to custody and guardianship of the child, including the right to give or withhold consent to the adoption of the child.

Termination of agreement

- (5) A parent of a child who makes an agreement with the Director described in subsection (1) may terminate the agreement by giving, in accordance with section 3.3, a notice of the termination to the Director not later than 14 days after the day the parent signed the agreement.

Return of child

- (6) After a notice of termination is given to the Director in accordance with subsection (5) and section 3.3, the Director shall, in accordance with the notice of termination, return the child to the parent in whose custody the child was at the time the agreement was made. *2004, c.25, s.1.*

3.3 Notice of termination of an agreement

- (1) A notice of termination given under section 3.1 or 3.2 shall be made in the prescribed form and shall be delivered in person or by registered mail.

Notices sent by registered mail

- (2) A notice of termination that is given by registered mail is deemed,
 - (a) for the purposes of subsection 3.1(7), to have been given to the Director or parent, as the case may be, five days after the date it was mailed; and
 - (b) for the purposes of subsection 3.2(5), to have been given to the Director on the date it was mailed. *2004, c.25, s.1.*

4. Placement standards

A person placing a child shall comply with such standards, requirements and procedures as may be prescribed in the regulations, and shall

- (a) subject to such conditions as may be prescribed, ensure that the parent or parents, if entitled to give consent under clause 22(b) or (c) and such consent has not been dispensed with by the court in accordance with section 26,
 - (i) receives professional counselling by a person authorized by the Director in order to
 - (A) ascertain that the placement is being voluntarily sought,
 - (B) describe options to and implications of placing the child,
 - (C) offer psychological support to the parent or parents, and
 - (ii) signs a formal consent to the placement, in such form and manner as the regulations or the Director may require;
- (b) ensure that a person authorized by the Director ascertains that there is no apparent risk to the child's basic welfare in the proposed placement;



- (c) ensure proper documentation of background information required by section 7 and of guardianship in accordance with section 9. *1992,c.1,s.4; 1995,c.1,s.2; 2008,c.8,s.1(2).*

5. Out-of-province placement

No person may place a child out-of-province except with the permission of the Director in accordance with such criteria and requirements as may be prescribed in the regulations. *1992,c.1,s.5.*

6. Notice to Director

A person, other than the Director, placing a child shall

- (a) notify the Director of the intention to place or, if it is not immediately known that the purpose is adoption, notify the Director of the placement as soon as practicable after it becomes evident that the child is in fact being placed for adoption; and
- (b) provide the Director with such information about identification and circumstances as may be prescribed in the regulations or otherwise specified by the Director. *1992,c.1,s.6; 1995,c.1,s.3.*

7. Information with placement

- (1) Any person placing a child shall provide in writing to the person receiving the child a summary of non-identifying information concerning the background and circumstances of the child including cultural heritage, medical history, family history as it might affect the child's rearing, reasons for the placement, and such other information as may be prescribed in the regulations.

Identification of child

- (2) The person placing the child shall not provide to any person information that identifies the parentage of the child except when
- (a) it is agreed by the person or persons who give up the child for placement; or
- (b) the release of the information is authorized or required by the regulations or written policy of the Director if not in conflict with the regulations.

Copy to Director

- (3) The person placing the child shall provide to the Director a copy of whatever information is given pursuant to subsections (1) and (2). *1992,c.1,s.7; 1995,c.1,s.4.*

8. Agreement for continuing contact

- (1) Where the birth parent or parents or guardian and the prospective adoptive parent or parents wish to arrange for continuing contact between any of the parties to the adoption, such arrangement shall have legal force only if it is recorded in a formal written agreement, reached after both parties have had independent legal advice, and a copy of the agreement is deposited with the Director and included with documents provided to the court when application is made for an adoption order.

Idem

- (2) An amendment or termination of an agreement for continuing contact shall have legal force only if deposited with the Director and with the court. *1992,c.1,s.8; 1995,c.1,s.5.*

9. Custody, guardianship during placement

During the period between the commencement of the placement and the making of the adoption order or other termination of the placement,

- (a) custody of the child lies with the person with whom the placement is made;
- (b) guardianship, whether full or partial, of the child is to be specified in a written agreement, registered in the prescribed form with the Director, agreed to by both the person having guardianship at the time of the placement and the person with whom the placement is made and, if no such agreement is made, guardianship shall be deemed to rest with the Director. *1992,c.1,s.9; 1995,c.1,s.6.*

APPLICATION TO ADOPT

10. PEI court jurisdiction

The court has jurisdiction to make an adoption order if

- (a) the child to be adopted is a resident or was born in the province;
- (b) the child's guardian is the Director, or otherwise is a resident; or
- (c) the applicant is a resident. *1992,c.1,s.10; 1995,c.1,s.7; 2000(2nd),c.3,s.62.*

11. Application to adopt

- (1) A person seeking to adopt a child shall apply to the court for an adoption order.

Copy to Director

- (2) The applicant shall send a notice of the application to the Director together with such supporting documentation as may be prescribed by the regulations. *1992,c.1,s.11; 1995,c.1,s.8.*

12. Minimum placement

A person may apply to adopt a child if the child has been placed with that person for at least three months prior to the application, or such shorter period as may be authorized by the court. *1992,c.1,s.13; 1995,c.1,s.9.*

13. Minimum time before hearing

The court shall not hear an application until at least three months after submission of the application, or such shorter period as the court, with the concurrence of the Director, may authorize. *1992,c.1,s.13; 1995,c.1,s.10.*

14. Age of applicant

No person shall apply to adopt unless he or she has attained the age of majority, and is older than the person to be adopted. *1992,c.1,s.14.*

15. Applicant, one person

An order shall not be made for the adoption of a child by more than one person, except in the case of a joint application by spouses. *1992,c.1,s.15; 2008,c.8,s.1(3).*



16. Joint application

- (1) Spouses may together make a joint application.

Step-parent application

- (2) Subsection (1) does not apply where one of the spouses is the parent of and has guardianship of the child, and in that case the adoption order does not affect the parental relationship of that person to the child. *1992,c.1,s.16; 2008,c.8,s.1(4).*

17. Director's assistance

The Director may

- (a) advise and assist an applicant, including preparing such legal forms and other documents as may be required; and
- (b) appear and be heard at the hearing of an application. *1992,c.1,s.17.*

18. Application documents

- (1) An application shall include copies of the following supporting documentation, as applicable:
- (a)
- (i) birth certificate, being an original or a certified copy, or
 - (ii) where it is required, pursuant to subsection 7(2), to keep the surname or parentage of the child secret, then
 - (A) the number of the birth registration, the given name, sex, date and place of birth, and
 - (B) sealed and not disclosed to the applicant, a certified copy of or extract from the birth record, permitting identification of the surname or parentage;
 - (b) marriage certificate in the case of joint applicants who are married;
 - (c) decrees of divorce where either applicant or parent is divorced;
 - (d) any agreement or court order regarding custody or guardianship of the child;
 - (e) information about the applicant, including name, age, marital status, and any relationship to the child to be adopted;
 - (f) a description of the circumstances by which the placement occurred, and the length of time the child has been placed;
 - (g) the consents required for the adoption pursuant to section 22;
 - (h) any agreement about continuing contact made under section 8;
 - (i) a statement by the Director that all applicable placement requirements set by the Act and regulations appear to have been met;
 - (j) such other information or documentation as may be prescribed by regulations or required by the court.

Dispensation

- (2) The court may dispense with the need to provide anything required by subsection (1).

Documents not to identify birth parent

- (3) Where it is required pursuant to subsection 7(2) to keep the parentage or surname of a child secret, the documents referred to in clauses (1)(d) and (g) shall be sealed or masked to

prevent the identification of the birth parent of the child or disclosure of the surname of the child. *1992,c.1,s.18; 1995,c.1,s.11; 2008,c.8,s.1(5).*

PRE-HEARING STUDY

19. Adoption study

Except in the case of the adoption of a competent adult, an applicant seeking an adoption order shall arrange that there is provided to the court, at least ten days before the hearing of the application, the report of a pre-hearing adoption study which has been completed or updated within the six-month period preceding the hearing by

- (a) the Director;
- (b) repealed by 2000(2nd),c.3,s.62;
- (c) a person authorized by the Director; or
- (d) a person or agency in another jurisdiction, acceptable to the Director. *1992,c.1,s.19; 1995,c.1,s.12; 2000(2nd),c.3,s.62.*

20. *Idem*

The report of the adoption study required by section 19 shall provide information and professional assessment concerning the apparent suitability of the placement and the likelihood that the child's welfare will be satisfactorily provided for in the long term, including

- (a) relevant circumstances of the placement;
- (b) the relations between child and the applicant and members of the household;
- (c) the care the child is receiving;
- (d) the present and likely future capacity of the applicant to provide for the best interests of the child; and
- (e) such further information and professional opinion as may seem helpful for the consideration of the court or as the court may require for purposes of considering the application. *1992,c.1,s.20.*

21. Right to see report

An applicant is entitled to access to the report provided under section 19 unless the court otherwise directs or imposes conditions relating to access. *1992,c.1,s.21.*

CONSENT

22. Consents required

Except as otherwise provided in this Act or ordered by the court, no order for adoption shall be made without the consent, within the year preceding the hearing, of

- (a) the child, if twelve years of age or more and competent to make an informed decision, or if the court believes it appropriate in any other case;
- (b) the mother of the child unless guardianship has been permanently transferred from her pursuant to an agreement or order under the *Child Protection Act*;
- (c) a parent of the child who is



- (i) the spouse of the mother,
- (ii) registered as a parent in accordance with the *Vital Statistics Act* R.S.P.E.I. 1988, Cap. V-4.1, or corresponding legislation of another jurisdiction, or
- (iii) declared to be a parent under the *Child Status Act* R.S.P.E.I. 1988, Cap. C-6, or corresponding legislation of another jurisdiction,

unless guardianship has been permanently transferred from that parent pursuant to an agreement or order under the *Child Protection Act*;

- (d) the legal guardian, if any; and
- (e) the Director, if
 - (i) there is no other person entitled to give or withhold consent, or
 - (ii) the applicant resides out-of-province. *1992,c.1,s.22; 1995,c.1,s.13; 2000(2nd),c.3,s.62; 2008,c.8,s.1(6).*

23. Consent to adoption, nature

- (1) A consent to adoption shall be given in such form and manner as may be prescribed by the regulations or is satisfactory to the court.

Idem

- (2) The consent shall state that it is freely and voluntarily given, and that the effects of the consent and of the proposed adoption have been explained to and understood by the person consenting.

Idem

- (3) A parent who is under the age of majority may give a valid consent. *1992,c.1,s.23; 1995,c.1,s.14,16; 2008,c.8,s.1(7).*

24. Fourteen day delay

A consent to adoption is not valid unless the child was at least fourteen days old at the time of the execution of the consent. *1992,c.1,s.24; 1995,c.1,s.15,16.*

25. Withdrawal of consent

A person who has given a consent to adoption may withdraw the consent within fourteen days of having given it, but not thereafter, by providing a written statement to the person to whom the consent was originally given and also to the Director. *1992,c.1,s.25; 1995,c.1,s.16.*

26. Dispensing with consent

The court may dispense with the need for the consent to adoption of any person except that of the Director or the child proposed to be adopted if it is satisfied that

- (a) the person does not have clear entitlement to give consent in accordance with section 22;
- (b) the person cannot competently make a decision to consent;
- (c) the person does not wish to exercise the entitlement to consent;
- (d) the person has not demonstrated responsibility or clear intention to contribute to the care and well-being of the child;
- (e) the person cannot be contacted, despite reasonable efforts to do so; or

- (f) the best interests of the child should override an entitlement to consent. *1992,c.1,s.26; 1995,c.1,s.16.*

SPECIAL PROVISIONS

27. Step-parent exemption

The step-parent of a child may apply to adopt the child without having to comply with the requirements regarding placement in sections 3 to 9. *1992,c.1,s.27.*

28. Adult adoptee

- (1) A person may apply to adopt a competent adult and the court may so order.

Idem

- (2) Unless the court determines that the person to be adopted is not competent to make such a decision, the requirements of this Act relating to
- (a) placement;
 - (b) adoption study;
 - (c) consent, other than that of the person to be adopted;
 - (d) notice of hearing and entitlement to appear,
- are not applicable and the court will determine what documentation and considerations are appropriate. *1992,c.1,s.28.*

HEARING

29. Hearing

Where an application for adoption is made and it appears that the requirements will be met, the court shall set a date for and hold a hearing of the application. *1992,c.1,s.29.*

30. Notice of hearing

The applicant shall ensure that, at least thirty days before the date set for the hearing of the application, written notice of the time, place and purpose is sent to

- (a) the Director;
- (b) anyone else entitled to give consent under section 22 if that person has not given it and if it has not been dispensed with pursuant to section 26. *1992,c.1,s.30.*

31. Dispensing with notice

The court may dispense with the requirement that notice of the hearing be given to anyone other than the Director or the child if it is satisfied that

- (a) the person does not have clear entitlement to consent or withhold consent in accordance with section 22;
- (b) the person cannot competently make a decision to be involved;
- (c) the person does not wish to be involved;
- (d) the person cannot be contacted, despite reasonable efforts to do so; or



- (e) the best interests of the child should override an entitlement to be involved.
1992, c.1, s.31.

32. Hearing private

The hearing shall be held in private, and access to the court's files concerning an application to adopt shall be restricted, unless the court determines otherwise, having regard for the best interests of the child. *1992, c.1, s.32.*

33. Applicant entitled to be heard

The applicant is entitled to be heard at the hearing, personally or by counsel, and may also have the Director act on behalf of the applicant. *1992, c.1, s.33.*

34. Child's wishes

The court shall inquire into the child's capacity to understand and appreciate the nature of the application, and consider the child's views and wishes if they can be reasonably ascertained, and where it is practical to do so, the court shall give the child the opportunity to be heard.
1992, c.1, s.34.

35. Witnesses, documents

The court may require at the hearing

- (a) the appearance of any person believed to have relevant information; and
- (b) the production of any relevant documents related to the application. *1992, c.1, s.35.*

36. Entitlement to be heard

Any person entitled to receive notice of the hearing pursuant to section 30, and whose entitlement to notice has not been dispensed with pursuant to section 31, is entitled to be heard, personally or by counsel, at it. *1992, c.1, s.36; 1995, c.1, s.17.*

37. Delay to obtain consent

- (1) If a required consent has not been obtained by the time of the hearing and the court does not dispense with it, the court may adjourn the hearing and direct that the person whose consent is required be served, in such manner as the court considers appropriate, with a notice of the application and the requirement of his or her consent or attendance at the hearing.

Dispensing with consent

- (2) If the person whose consent is required cannot be contacted or does not provide consent or does not appear at the time appointed, or within such further time as the court may allow, or if, appearing, the person does not show cause why the adoption order should not be made, then the court may dispense with the consent of that person. *1992, c.1, s.37.*

ADOPTION ORDER

38. Adoption order

Upon completion of the hearing, the court may make an order of adoption of the child by the applicant, if satisfied that

- (a) the requirements of the Act and regulations have been complied with;
- (b) the applicant is able to fulfil the obligations and perform the duties of parent toward the child; and
- (c) the best interests of the child will be served thereby. *1992,c.1,s.38.*

39. Secrecy of previous identity

- (1) Where the child's previous identity or parentage has, pursuant to subsection 7(2), been kept secret prior to the adoption order, the adoption order shall not show the previous surname, but rather identify the child by the given name prior to the adoption and a number or other code referring to the registration of the child's birth.

Idem

- (2) Subsection (1) does not apply if the court is satisfied that the person or persons who gave the child up for placement subsequently agreed to the revealing of the child's previous identity and parentage, and the applicant agrees. *1992,c.1,s.39.*

40. Child's name

- (1) The court shall in an adoption order specify the surname the child is to have.

Idem

- (2) The surname shall be, subject to subsection (3), the surname requested by the applicant in accordance with the rules for registering a child's birth under the *Vital Statistics Act*.

Idem

- (3) The choice of name is subject to the consent of the child if twelve years old or more and competent to make an informed decision, and subject to any consultation by the court with the child if under twelve.

Idem

- (4) Upon the request of the applicant, subject to subsection (3), the court may also in the order change the child's given name. *1992,c.1,s.40; 1995,c.1,s.18.*

41. Dispensing with consent

Within thirty days of an adoption order, the court shall provide certified copies of the order to

- (a) the adopting parent or parents;
- (b) the Director;
- (c) repealed by 2000(2nd),c.3,s.62;
- (d) the Director of Vital Statistics,

and, where the adopted child was born outside Prince Edward Island, the court shall provide two certified copies together with such information as is required to enable the Director of



Vital Statistics to provide notification to the registration authority where the child was born. *1992, c.1, s.41; 2000(2nd), c.3, s.62.*

EFFECT OF ADOPTION

42. Effect of adoption

- (1) Subject to subsection (2), and notwithstanding whatever hereditary, social, emotional and other forms of relationship may be possible, an adoption order has effect as follows:
 - (a) for all purposes of law, an adopted child becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child;
 - (b) for all purposes of law, the adopted person ceases to be the child of the person who was his or her parent, whether by birth or through previous adoption, prior to the adoption order, except that a parent who is the spouse of an adopting parent continues to be a parent of the child;
 - (c) the previous relationships to other relatives prior to the adoption cease, and new relationships have effect on the date of the adoption order, in accordance with the relationships of the adopting parent.

Exception, incest

- (2) For purposes of laws related to incest and the prohibited degrees of marriage, subsection (1) does not remove a person from a relationship in consanguinity which, but for this section, would have existed between that person and another person. *1992, c.1, s.42.*

43. Effect *re* will

- (1) In a will, conveyance or other such document made at any time before or after the day this section comes into force, and whether the maker of the will or document is alive on that day or not, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be deemed to refer to or include, as the case may be, a person who comes within the description as a result of an adoption, unless the contrary is expressed.

Vested interests

- (2) Nothing in subsection (1) affects an interest in property that has vested in a person before the making of the adoption order. *1992, c.1, s.43.*

44. Effect of out-of-province adoption

An adoption that was ordered, whether before or after this Act comes into force, under the corresponding law in another jurisdiction has the same effect in Prince Edward Island as an adoption ordered under this Act. *1992, c.1, s.44.*

45. Notification

The Director of Vital Statistics shall notify the Director of any adoption in another jurisdiction of a child born in Prince Edward Island of which the Director of Vital Statistics learns. *1992, c.1, s.45.*

SECURITY OF RECORDS

46. Adopted Children Register

- (1) The Director of Vital Statistics shall keep an Adopted Children Register in which shall be recorded all adoption orders, both Prince Edward Island adoption orders and those received from other jurisdictions.

Notation of adoption on birth registration

- (2) The Director of Vital Statistics shall cause the original birth registration of a child who is adopted to be marked “adopted” and cross-referenced with the Adopted Children Register, and shall mark the new registration, if any, in accordance with clause 13(2)(c) or 13(4)(b) of the *Vital Statistics Act* R.S.P.E.I. 1988, Cap. V-4.1 so as to permit subsequent location of the original registration if necessary.

Idem

- (3) In making these entries, the Director of Vital Statistics shall make a notation as to whether the adoption order makes the previous identity or parentage open or indicates if it is intended to be kept secret. *1992, c.1, s.46; 1996, c.48, s.42; 1999, c.48, s.3.*

47. Security

- (1) All records and documents kept by the court, by the Director and by the Director of Vital Statistics relating to the placement and adoption of a child are confidential, and shall be kept indefinitely in a secure place, and the information in them shall not be disclosed, except as provided in this Act or ordered by the court.

Idem

- (2) Original records and documents may be destroyed if microfilmed or electronically or otherwise preserved, and if the copies in this other form are kept confidential as required by subsection (1).

Idem

- (3) The court, the Director or the Director of Vital Statistics may allow access to or disclosure of information from adoption records and documents for purposes of genealogical or historical research if
- (a) it is apparent that all parties to the adoption (birth parents, child, adoptive parents) have been deceased for at least twenty years; and
 - (b) there is no reason to believe that the access or disclosure will be harmful to other living persons.

Idem

- (4) The Director of Vital Statistics may disclose information from, or provide a copy of, an original birth registration
- (a) where the notation referred to in subsection 46(3) indicates that the identity or parentage is open; or
 - (b) where the notation indicates that the identity or parentage is to be kept secret but
 - (i) the information is not of a confidential nature or is known to or available to the adopted person from another source,
 - (ii) disclosure is authorized or required by the *Vital Statistics Act*, or



- (iii) the information is communicated only to a person authorized under a license or permit or an agency of the Government of Canada, a province or a state, or a territorial unit of a state for purposes of performing functions authorized by law. *1992, c.1, s.47; 1995, c.1, s.19; 2000(2nd), c.3, s.62.*

DISCLOSURE OF NON-IDENTIFYING INFORMATION

48. Disclosure of information

- (1) The person who places a child, or the Director, or the court may at any time, if the circumstances so warrant, provide to any party to a placement or an adoption any information concerning the background of the child adopted except, in a case where secrecy is kept under subsection 7(2) and section 39, any information which would readily establish the child's previous identity or parentage.

Idem

- (2) The Director or person who placed a child or the court may at any time provide to a physician or other health professional authorized by the regulations or by the Director such health-related information concerning the child as the practitioner may require for purposes of the child's care.

Idem

- (3) The court, or the Director or person who placed the child may provide the information referred to in this section also for
 - (a) a parent who adopted a child, or
 - (b) an adopted child,

where the adoption was effected in Prince Edward Island prior to the coming into force of this Act. *1992, c.1, s.48; 2000(2nd), c.3, s.62.*

DISCLOSURE OF IDENTIFYING INFORMATION, REUNION

49. Reciprocal Search Register

- (1) The Director shall keep a Reciprocal Search Register for the purpose of matching and otherwise assisting persons who, in the Director's judgment, have a significant relationship that has been affected by an adoption and a valid reason to seek the information or to make a connection, in order to learn about or make contact with each other.

Idem

- (2) An adult shall apply in such manner as the regulations may prescribe or the Director may require, naming the person with whom a match is sought.

Idem

- (3) If there is a match of requests, the Director shall, subject to subsection (6),
 - (a) inform each party of the match;
 - (b) where feasible, by so encouraging the adopted person, attempt to ensure that the adoptive parent or parents are informed;
 - (c) provide for an exchange of current non-identifying information; and

- (d) determine whether there is mutual agreement to proceed further.

Idem

- (4) If there is mutual agreement, the Director shall proceed to provide further information, including identity, and if it is jointly wanted, facilitate a meeting of the parties in such manner as the Director, in consultation with the parties, considers appropriate.

Idem

- (5) If at any time either party requests the discontinuance of the process, the Director shall not proceed.

Approval of birth parent

- (6) If the Director considers that the provision of information or contact between requesting parties is likely to reveal the identity of the birth parent or parents against their probable wishes, the Director shall, subject to subsection (7), obtain the approval of the birth parent or parents before proceeding to act on a match.

Idem

- (7) Notwithstanding subsection (6), if the Director believes that the approval of the birth parent or parents is not significant to action on the requests, or is not feasible to obtain, the Director may, considering both the wishes of the requesting parties and the probable wishes or interests of the birth parent or parents, and the reasons therefor, make a judgment on whether to proceed to act on a match. *1992, c.1, s.49.*

50. Active search

- (1) An adult adopted person seeking the identity of or identifying information concerning, or to make contact with, a birth parent or sibling of that person shall make a request to the Director.

Consultation with adoptive parents

- (2) In proceedings pursuant to subsection (1), the Director shall where feasible, by so encouraging the person requesting the search, attempt to ensure that the adoptive parents are consulted concerning the search.

Search of records

- (3) The Director shall, subject to subsection (7),
- (a) search the records pertaining to the placement and adoption, and if possible ascertain the requested information; and
 - (b) make contact on a confidential basis with the person about whom the request was made.

Idem, disclosure

- (4) If the person so contacted gives permission, the Director shall, in such manner as may be prescribed in the regulations or policy,
- (a) release to the person making the request the identity or information requested; and
 - (b) if the person making the request wishes to make contact, arrange the contact between the two parties.



Idem

- (5) If the Director cannot contact the person about whom the request was made, or if the person is found to be incompetent to give the required permission, the Director may, considering both the wishes of the person making the request and the probable wishes or interests of the person sought, and the reasons therefor, make a judgment on whether to provide the requested information or not.

Idem

- (6) If it is found that the person about whom the request was made is no longer alive, the Director shall provide the person making the request with the requested information, unless there is reason to believe that significant harm would result.

Idem, Director may refuse

- (7) The Director may refuse to disclose identifying information or to facilitate a reunion if the Director determines that it is not feasible to do so or that it would be likely to have harmful results for the persons involved in the placement and adoption. *1992, c.1, s.50; 1995, c.1, s.20; 2000(2nd), c.3, s.62.*

51. Appeal

Where a person making a request pursuant to section 49 or 50 has reason to believe that the Director has not dealt properly with the request, the person may apply to the court and the court, having given both the person making the request and the Director the opportunity to be heard, may order that the Director carry out the actions referred to in the relevant section. *1992, c.1, s.51; 2000(2nd), c.3, s.62.*

52. Search requested by minor

- (1) An adopted person who is a minor, with the written consent of the parent or guardian of the minor, or the parent or guardian with the written consent of the minor, is entitled to apply under section 49 or 50, if the Director believes that the result is significant to the health or well-being of the adopted person.

Idem

- (2) If a person fails to obtain the consent required in subsection (1), that person may nonetheless apply and the application may be acted upon, if the Director determines that the required consent cannot practically be obtained or is unreasonably withheld, and that the adopted person would suffer seriously harmful consequences if action were not taken. *1992, c.1, s.52; 2000(2nd), c.3, s.62.*

53. Refusal by other party

Where the person about whom a request was made pursuant to section 50 is contacted but is not willing to have the identifying information released or contact arranged with the person making the request, the Director shall not proceed. *1992, c.1, s.53; 2000(2nd), c.3, s.62.*

54. Application of s 47 to 53

Sections 47 to 53 also apply to adoptions effected under any previous Act governing adoption. *1992, c.1, s.54; 1995, c.1, s.21.*

MISCELLANEOUS

55. Payment prohibited

- (1) Any person who gives or receives, or agrees to give or receive, any payment or reward, either directly or indirectly, to procure or assist in procuring a child for the purposes of placement or adoption is guilty of an offence and is liable upon summary conviction to a fine not exceeding \$20,000 or imprisonment for a term not exceeding one year.

Idem, exceptions

- (2) Subsection (1) does not preclude
- (a) reimbursement for reasonable costs incurred;
 - (b) a fee for service charged by the Director or, with the Director's approval or authorization in regulations, by a person authorized to make a placement; or
 - (c) fees charged by a barrister, solicitor or attorney, within a range considered by the Council of the Law Society of Prince Edward Island to be reasonable for such legal services. *1992,c.1,s.55; 1995,c.1,s.22; 2000(2nd),c.3,s.62.*

56. Subsidized adoption

Where the Director believes it necessary or important in terms of the best interests of the child, the Director may authorize and make an agreement for subsidizing a placement or an adoption, in accordance with the regulations. *1992,c.1,s.56.*

56.1 Intercountry adoption

In relation to an intercountry adoption other than one to which the *Intercountry Adoption (Hague Convention) Act* R.S.P.E.I. 1988, Cap. I-4.1 applies, the court may waive or modify any requirement imposed by this Act. *1995,c.1,s.23.*

57. Regulations

The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary for carrying out the purposes and provisions of this Act, including prescribing forms for the purposes of sections 3.1 to 3.3. *1992,c.1,s.57; 2004,c.25,s.2.*

