

**ADOPTION INFORMATION, POST-ADOPTION CONTACT AND ASSOCIATED ISSUES
PROPOSALS, 2003**

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THE ADOPTION INFORMATION AND POST-ADOPTION CONTACT BILL

PART I

Preliminary and General

HEAD 1 : SHORT TITLE AND COMMENCEMENT

Provide that:

(1) This Bill may be cited as The Adoption Information and Post-Adoption Contact Bill, 2003.

(2) This Bill shall come into operation on such day or days as order or orders made by the Minister under this Section may be fixed either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

HEAD2:INTERPRETATION

Provide that:

(1) In this Act, except where the context otherwise requires –

"the Minister" means the Minister for Health and Children

"the Board" means An Bord Uchtála

"health board" means a health board established under the Health Act, 1970 and the Eastern Regional Health Authority

"functions" includes powers and duties

"information source" includes any individual, present and former State or private organisation or body, religious order, hospital or home or any other information source, additional to that construed in the First Schedule, deemed by the Minister to be covered by the provisions of this Act

"record" includes any memorandum, book, register, file, photograph or other document, any form in which information is held, any other form or thing in which information is held or stored manually, mechanically or electronically and anything that is a part or a copy, in any form, of any of the foregoing or is a combination of two or more of the foregoing,

"prescribed" means prescribed by the Minister by Regulation made under this Act

"personal information" includes any information on record about a person, excluding shared information.

"shared information" means information about another person which is contained as part of a record about a person and which if released may cause that other person to be identified.

"adopted person" means a person who was legally adopted in accordance with the Adoption Acts 1952 to 1998 inclusive.

"others" means those who were never legally adopted but were separated from their biological parents and raised in intermittent or continuous care.

"birth parent" means a mother or father whose biological child has been placed for adoption under the Adoption Acts 1952 to 1998

"adoptive parent" means a person who has adopted a child under the Adoption Acts 1952 to 1998 inclusive.

"Contact Veto Register" means the register established and maintained under Section 7 of this Act.

"Voluntary Contact Register" means the register established and maintained under Section 7 of this Act.

"Specified Body" means a body named in the Second Schedule of this Act

"Search Subject" means a person who is the subject of a search being undertaken by a health board on behalf of an adopted person, a parent, or a person raised in intermittent or constant care.

HEAD 3: ACCESS TO RECORDS

Provide that:

(1) Notwithstanding anything contained in the Data Protection Act, 1988, the Adoption Board, for the purpose of its functions under this Bill, may request from any Information Source

information or records held by or in the possession of that Information Source and it shall be provided to the Adoption Board as requested.

(2) The Adoption Board will have the power to enter the premises of an Information Source, inspect and copy records as required.

(3) If as a result of an inspection of a premises, it appears to the Adoption Board that records are not being properly maintained, the Adoption Board will have the power to seize records and give them to the Health Board in whose area the information source is located for safekeeping.

(4) It shall be an indictable offence for an information source to:

(i) deny or obstruct access to records

(ii) tamper, interfere with or destroy a record

and a fine, imprisonment or both shall apply.

(5) Information Sources holding records relating to adopted persons, birth parents, adoptive parents and others shall ensure that such records are held in perpetuity.

PART 2

Information Rights and Associated Issues for Adopted Persons and Birth Parents

HEAD 4 : RIGHT OF ADOPTED PERSONS TO BIRTH CERTIFICATES

Provide that:

(1) An adopted person aged 18 years and over has a right to and shall on application therefore be granted a copy of his /her original birth certificate, subject to the exceptional circumstances provided for in Head 6.

(2) An adopted person who wishes to exercise his/her right to apply for an original birth certificate shall:

(i) Apply in writing, stating that the request is being made under this Bill, to the health board in which he/she is resident to attend an advice session on adoption information as soon as is practicable

(ii) Furnish, with the written request, proof of identity as prescribed in Regulation made under this Bill

(iii) Attend an advice session on adoption information provided by a health board under this Subhead and sign a form or forms of undertaking confirming that he/she has been made aware of and understand:

(a) his/her rights under the Bill, and

(b) the rights of others under the Bill, and

(c) offences under the Act and where he/she is informed that a Veto on

Contact has been registered by another party that he/she agrees to comply with the wishes of that person

(3) Having attended an advice session on adoption information, an adopted person shall then make a request in writing to the Adoption Board, if they wish to obtain a copy of their original birth certificate.

(4) The Adoption Board, having received a written request from an adopted person for a copy of their original birth certificate shall:

(i) obtain written confirmation, from the health board, that the requester has attended an advice session and signed undertakings in respect of 2(iii) above, and

(ii) consider any exceptional circumstances under Head 6, which might influence the decision to authorise the release of an original birth certificate

(iii) complete a two part authorisation form and issue Part I, subject to the exceptional circumstances provided for at Head 6, for forwarding to An t-Ard Chlaraitheoir which will:

(a) be numbered

(b) include details of -

-the adopted person's name, address and date of birth -the adopted person's original name and date of birth -date of adoption order

-the name, date of birth and address of the adopted person's birth parent's

(c) where a veto on contact has been registered under Section of this bill, inform an t-Ard Chlaraitheoir and direct an t-Ard Chlairaitheoir to stamp the copy birth certificate being issued, "Subject To Contact Veto"

(iv) complete, for issue to the adopted person, Part 2 of the authorisation form, subject to the exceptional circumstances at Head 6, to present to an t-Ard Chlaraitheoir, which will:

(a) reflect the same number as that entered in Part 1 of the authorisation form

(b) state that it is in order to release an original birth certificate to the adopted person named on the form, in accordance with the details furnished to an

t-Ard Chlaraitheoir in Part 1 of the authorisation form

(c) where a Contact Veto has been registered, indicate this fact.

(5) The health boards and the Adoption Board shall ensure that services are in place to assist those with physical, sensory or intellectual disability to exercise their rights under Head 4.

(6) Application for and release of a birth certificate to an adopted person shall be subject to Regulations made under this Bill.

(b) the rights of others under the Bill, and

(c) offences under the Act and where he/she is informed that a Veto on Contact has been registered by another party that he/she agrees to comply with the wishes of that person

(3) Having attended an advice session on adoption information, an adopted person shall then make a request in writing to the Adoption Board, if they wish to obtain a copy of their original birth certificate.

(4) The Adoption Board, having received a written request from an adopted person for a copy of their original birth certificate shall:

(i) obtain written confirmation, from the health board, that the requester has attended an advice session and signed undertakings in respect of 2(iii) above, and

(ii) consider any exceptional circumstances under Head 6, which might influence the decision to authorise the release of an original birth certificate

(iii) complete a two part authorisation form and issue Part I, subject to the exceptional circumstances provided for at Head 6, for forwarding to An t-Ard Chlaraitheoir which will:

(a) be numbered

(b) include details of -

-the adopted person's name, address and date of birth -the adopted person's original name and date of birth -date of adoption order

-the name, date of birth and address of the adopted person's birth parent's

(c) where a veto on contact has been registered under Section of this bill, inform an t-Ard Chlaraitheoir and direct an t-Ard Chlairaitheoir to stamp the copy birth certificate being issued, "Subject To Contact Veto"

(iv) complete, for issue to the adopted person, Part 2 of the authorisation form, subject to the exceptional circumstances at Head 6, to present to an t-Ard Chlaraitheoir, which will:

(a) reflect the same number as that entered in Part 1 of the authorisation form

(b) state that it is in order to release an original birth certificate to the adopted person named on the form, in accordance with the details furnished to an

t-Ard Chlaraitheoir in Part 1 of the authorisation form

(c) where a Contact Veto has been registered, indicate this fact.

(5) The health boards and the Adoption Board shall ensure that services are in place to assist those with physical, sensory or intellectual disability to exercise their rights under Head 4.

(6) Application for and release of a birth certificate to an adopted person shall be subject to Regulations made under this Bill.

-the name, date of birth and address of the adoptive parent's -whether a Contact Veto has been registered.

(c) where a Veto on contact has been registered, request an t-Ard Chlaraitheoir to stamp the copy birth certificate, when being issued, "Subject To Contact Veto"

(iv) complete, for issue to the birth parent, Part 2 of the authorisation form, subject to the exceptional circumstances at Head 6 , to present to an t-Ard Chlaraitheoir, which will:

(a) reflect the same number as that entered in Part 1 of the authorisation form

(b) state that it is in order to release an adoption certificate to the birth parent named on the form, in accordance with the details furnished to an t-Ard Chlaraitheoir in Part 1 of the authorisation form

(c) indicate whether a Veto on Contact has been registered.

(6) The health boards and the Adoption Board shall ensure that services are in place to assist those with physical, sensory or intellectual disability to exercise their rights under Head 5.

(6) Application for and release of an adoption certificate to a birth parent shall be subject to Regulations made under this Bill.

HEAD 6 : EXCEPTIONAL CIRCUMSTANCES

Provide that:

(1) In exceptional circumstances, an adopted person, a birth parent or an adoptive parent may apply to the Adoption Board to defer or withhold the release of a birth or adoption certificate under Heads 4 or 5 and should explain in writing the basis for their request, substantiating any claims or allegations made.

(2) Without prejudice to the generality of sub-section (1), exceptional circumstances would include situations where there are reasonable grounds for believing that release of the certificate in question would place another party at risk of serious harm

(3) If satisfied that exceptional circumstances exist, the Adoption Board shall have the power, on foot of an application received under subhead (1) & (2) above, to :

(i) Instruct the person seeking release of the certificate, to attend counselling prior to the release of the certificate by An t-Ard Chlaraitheoir, and

(ii) Instruct An t-Ard Chlaraitheoir to withhold or defer the issue of an original birth certificate to that person until further notice

(4) The Adoption Board must notify the person seeking the release of the certificate, in writing of its reasons for preventing or deferring the issue of the certificate.

(5) The person seeking the release of the certificate may appeal the decision of the Adoption Board to the Information Appeals Panel established by the Minister under Head 22

HEAD 7 : NATIONAL CONTACT VETO REGISTER

Provide that:

(1) An administrative mechanism for protecting the privacy of adopted persons and birth parents who do not wish to associate with or be contacted by the other party shall be

established and shall be known as the National Contact Veto Register.

(2) The Adoption Board shall be responsible for holding and maintaining the National Contact Veto Register which shall not be open to the public, and will oversee its administration at Board and health board level, in accordance with the provisions of this Bill.

(3) Adopted persons aged over 18 years and birth parents shall have a right to register a contact veto and this entitlement will apply only to adoptions made prior to the enactment of this Bill.

(4) A Contact Veto will last for a period of five years but may be lifted at any time by the person who placed it, or may be renewed at the end of the five year period.

(5) An adopted person or birth parent who wishes to exercise the right to register a Contact Veto shall:

- (i) Attend in person at an office designated by the health board, and
- (ii) Receive, from a designated officer of the health board, a briefing on the implications of registering a Contact Veto, and
- (iii) Be afforded an opportunity to file a written statement that includes:
 - (a) the reasons for wishing not to be contacted
 - (b) in the case of a birth parent, a summary of any available information about medical and social history of the birth parents and their families
 - (c) any other relevant information.
- (iv) Formally lodge their Veto on Contact

(6) (i) An adopted person or birth parent who is unable to attend in person at a designated office shall notify the Adoption Board in writing of his/her wish to register a Contact Veto

(ii) The Adoption Board shall arrange for a designated officer of the health board to meet with the applicant and register his/her Contact Veto in accordance with (5)(ii),(iii) & (4) above.

(7) The health board shall notify the Adoption Board, in writing of every Veto recorded, and it will then be entered into the National Contact Veto Register.

(8) It will be a summary offence for an information recipient, or someone acting on his or her behalf to make written, verbal, electronic or personal contact, or attempt to contact or harass a person who has lodged a Contact Veto and a fine or imprisonment for a period not exceeding twelve months, shall apply in the case of a person or persons found guilty of such an offence.

(9) The National Contact Veto Register will be subject to Regulations made under this Bill.

(10) The administration of the National Contact Veto Register shall be exempt from the provisions of the Data Protection Act, 1988 and the Freedom of Information Act, 1997 (as amended).

(11) A period of twelve months from the date of commencement of this Section shall be allowed to elapse to give adequate time for an adopted person or birth parent to be informed about and to register a contact veto before any right of access to a birth or adoption certificate, or information from records, arises and Heads 4, 5, 7, and 8 shall not be brought into operation

until the National Contact Veto Register has been operational for a period of at least six months.

(12) Health boards and the Adoption Board shall ensure that services are in place to assist those with physical, sensory or intellectual disability to exercise their rights under Head 6

HEAD 8 : RIGHT OF ADOPTED PERSONS TO INFORMATION FROM RECORDS

Provide that:

(1) Adopted persons aged 18 years and over have a right to and shall on application therefore be granted the following information from records held by information sources, where such information exists:

- (i) Personal information about themselves, and
- (ii) A copy of all other information on record, with the exception of information which may identify a third party.
- (iii) In the case of it being proven that a birth parent's are deceased, all relevant personal information will be released to the adopted person, with the exception of information which might identify a third person.

(2) Nothing in Subsection (1) above obliges an information source to disclose to an adopted person personal information relating to another individual unless that other individual has consented to that disclosure. However, where it would be reasonable for the information source to conclude that, if any particulars identifying that other individual were omitted, the information could then be disclosed as aforesaid without him/her being thereby identified to the adopted person, the information source shall be obliged to release the information to the adopted person with the omission of those particulars.

(3) An adopted person who wishes to exercise this right shall:

- (i) Have exercised his/her rights under Head 4 as appropriate, and
- (ii) Apply in writing to the Adoption Board, stating that their request is being made under this Bill, and
- (iii) Furnish proof of identity and of having met the requirements under Head 4 of this Bill.

(4) The Adoption Board, having received a request under Section 1 above, shall:

- (i) Release information from the Board's adoption records, in accordance with the provisions of Subhead 1 above as soon as is practicable and
- (ii) Where requested by the applicant, shall instruct the Registered Adoption Society or Information Source named in the Adoption Record to release information from their records in accordance with Section 1 above as soon as is practicable.
- (iii) In the case of an applicant under this Head not wishing to have their request dealt with by the information source holding their records, the Adoption Board shall instruct the information source to forward a complete copy of the relevant adoption records to the health board in whose functional area the adopted person is resident, so that information from records can be released in accordance with Section I above.
- (iv) Information released from records in accordance with Section I above shall be imparted to the adopted person by a professionally qualified Social Worker or a person trained for this purpose as prescribed

(5) A Registered Adoption Agency or any other information source receiving an instruction from the Adoption Board under 4(iii) above shall forward the complete adoption record or a copy of the complete adoption record to the relevant health board within a period of six weeks.

(6) The information source or nominated health board, on receipt of an instruction from the Adoption Board under 4 (ii) or (iii) above shall:

(i) Copy the relevant information from the record in accordance with Section (1) above, and have it imparted to the adopted person by a professionally qualified Social Worker or person trained for this person as prescribed.

(ii) When, in the opinion of the Information Source, information to be released from records is of a distressing or sensitive nature, that information will be imparted to the requester by such health professional having expertise in relation to the subject matter of the record.

(7) Health boards and the Adoption Board shall ensure that services are in place to assist those with a physical, sensory or intellectual disability to exercise their rights under this Head.

(8) The release of information to adopted persons, from records held by information sources, will be subject to Regulations made under this Bill.

HEAD 9 : RIGHT OF BIRTH PARENTS TO INFORMATION FROM RECORDS

Provide that:

(1) A birth parent has a right to and shall on application therefore be granted the following information from records held by information sources, where such information exists:

(i) Personal information about him/herself,

(ii) A copy of all other information on record, with the exception of shared information or information which may identify a third party,

(iii) In the case of it being proven that the adopted person is deceased, all relevant personal information will be released to the birth mother, with the exception of information which might identify a third person.

(2) Nothing in Subsection (1) above obliges an information source to disclose to a birth parent, personal information relating to another individual unless that other individual has consented to that disclosure, provided that, where the circumstances are such that it would be reasonable for the information source to conclude that, if any particulars identifying that other individual were omitted, the information could then be disclosed as aforesaid without his being thereby identified to the birth parent, the information source shall be obliged to release the information to the birth parent with the omission of those particulars.

(3) A birth parent who wishes to exercise this right shall:

(i) Firstly exercise their rights under Head 5 as appropriate and

(ii) Apply in writing to the Adoption Board, stating that their request is being made under this Bill, and

(iii) Furnish proof of identity and of having met the requirements under Head 5 of this Bill.

(4) The Adoption Board, having received a request under sub-section 3 above, shall:

(i) Release information from the Boards adoption records, in accordance with Section 1 above as soon as is practicable and

(ii) Where requested by the applicant, shall instruct the Registered Adoption Society or Information Source named in the Adoption Record to release information from their records in accordance with Section 1 above.

(iii) In the case of an applicant under this Head not wishing to have their request dealt with by the information source holding their records, the Adoption Board shall instruct the information source to forward a complete copy of the relevant adoption records to the health board in whose functional area the adopted person is resident, so that information from records can be released in accordance with Section 1 above.

(iv) Information released from records in accordance with Section 1 above shall be imparted

to the birth parent by a professionally qualified Social Worker or a person trained for this purpose as prescribed

(5) A Registered Adoption Agency or any other information source receiving an instruction from the Adoption Board under 4(iii) above shall forward the complete adoption record or a copy of the complete adoption record to the relevant health board within a period of six weeks.

(6) The information source or nominated health board, on receipt of an instruction from the Adoption Board under 4 (ii) or (iii) above shall:

(i) Copy the relevant information from the record in accordance with sub-section (1) above, and have it imparted to the birth parent by a professionally qualified Social Worker or person trained for this purpose as prescribed.

(ii) When, in the opinion of the Information Source, information to be released from records is of a distressing or sensitive nature, that information will be imparted to the requester by such health professional having expertise in relation to the subject- matter of the record

(7) Health Boards and the Adoption Board shall ensure that services are in place to assist those with a physical, sensory or intellectual disability to exercise the

(7) The release of information to adopted persons, from records held by information sources, will be subject to Regulations made under this Bill.

HEAD 10 : INFORMATION RIGHTS IN REGARD TO FUTURE ADOPTIONS

Provide that:

From the date of enactment of this Bill:

(1) On reaching 18 years of age, an adopted person who was placed for adoption after the enactment of this bill, has a right to apply to the Adoption Board and shall on application be granted

(i) preliminary identifying information from record, prescribed in Regulations, which shall enable him/her to obtain an original birth certificate from the office of An t-Ard Chlaraitheoir, and on receipt of the original birth certificate,

(ii) his/her personal information from record, and

(iii) relevant information about his/her birth parents.

(2) A birth parent whose child was placed for adoption after the enactment of this Bill may on application to the Adoption Board obtain non-identifying information on the adopted child at specific intervals, prescribed in Regulations, during the period when the child is under 18 years of age.

(3) A birth parent whose child was placed for adoption after the enactment of this Bill, and whose child has reached 18 years of age has a right to apply to the Adoption Board for preliminary identifying information from record, prescribed in Regulations, which shall enable him/her to obtain a copy of the adopted person's adoption certificate from an t-Ard Chlaraitheoir.

(4) An adoptive parent of a child placed for adoption after the enactment of this Bill has a right to and shall on application to the Adoption Board therefore be granted non-identifying information, from adoption records, prescribed in Regulations, on the adopted child's medical and family background, where such information exists, while the adopted child is under the age of 18 years of age.

(5) Information rights in regard to future adoptions will be subject to Regulations made under this Bill.

PART 3

Information Rights: Others

HEAD 11 : RIGHT TO INFORMATION FROM RECORD

Provide that:

(1) Those raised in intermittent or continuous care by information sources not included in the list of public bodies construed in accordance with The First Schedule of the Freedom of Information Act, 1997 (as amended), have a right to and shall on application therefore be granted the following information from records held by information sources construed in accordance with the First Schedule of this Act, where such information exists:

(i) Personal information about themselves

(ii) A copy of all other information on record, with the exception of information which may identify a third party

(iii) In the case of it being proven that a birth parent's are deceased, all relevant personal information will be released to the adopted person, with the exception of information which might identify a third person.

(2) Nothing in Subsection (1) above obliges an information source to disclose to an applicant personal information relating to another individual unless that other individual has consented to that disclosure. Where that it would be reasonable for the information source to conclude that, if any particulars identifying that other individual were omitted, the information could then be disclosed as aforesaid without his being thereby identified to the adopted person, the information source shall be obliged to release the information to the adopted person with the omission of those particulars.

(3) A person wishing to exercise this right shall:

(i) Apply in writing to the relevant Information Source, stating that his/her request is being made under this Act, to access information from records held by that information sources.

(ii) Furnish proof of identity

(4) An information source, having received a request under sub-section (3) above, shall release information from records, in accordance with sub-section (1), within a period of not more than twelve weeks from receipt of the request, and in accordance with Regulations made under this Bill.

(5) An information source shall ensure that information from records of a distressing or sensitive nature will be imparted to the requester by such health professional having expertise in relation to the subject-matter of the record.

(6) In the case of sub-section (5) above, the Information Source will have the power to instruct a requester to attend counselling prior to or following the release of information.

(7) An Information Source, if not in a position to meet the requirements under sub-section (4) above, shall hand over its records to the State, which will ensure the release of information.

(8) The release of information from records will be subject to Regulations made under this Bill.

PART 4

Records

HEAD 12 : CARE AND MAINTENANCE OF RECORDS

Provide that:

- (1) The Adoption Board shall have the power to direct an information source to maintain its records in accordance with specific standards of safekeeping.
- (2) The Adoption Board shall have the power to take charge of any records which are not being properly maintained and to have them assigned to a regional health board for safe keeping.
- (3) The Adoption Board shall have the power to direct an information source to forward a persons records to a regional health board or an alternative body for the purpose of facilitating an applicant in exercising their rights under the provisions of the Bill.
- (4) The Adoption Board shall have the power to seize records where there are genuine concerns regarding access.
- (5) The Adoption Board shall have the power to accept the records of an information source which is not in a position to meet the requirements of the Act and which chooses to or is directed by the Adoption Board to hand over its records to the State.
- (6) The care and maintenance of records shall be subject to Regulations made under this Bill.

PART 5

Search and Reunion Services

HEAD 13 : VOLUNTARY CONTACT REGISTER

Provide that:

- (1) A Register containing the name of every person wishing to make voluntary contact with a person from whom he or she has been separated as a consequence of adoption or being raised in care, shall be established and known as The Voluntary Contact Register
 - (2) The Adoption Board shall be responsible for holding and maintaining the Voluntary Contact Register
 - (3) (a) The following persons have a right to and on application shall have an entitlement to have their names and other identifying information entered in the Register:
 - (i) an adopted person
 - (ii) a birth parent
 - (iii) any other person having an interest in an adopted person or birth parent (including a relative) who in the opinion of the Adoption Board, ought to have his or her name entered in the Register
 - (b) A person who is less than 18 years of age is not eligible to have his or her name entered in the Register, except as provided for in 3(c) below
 - (c) An adopted person aged 12 years or more, may have his or her name entered in the Register, if in the opinion of the Adoption Board, that to do so will promote the welfare and best interests of the child and where special circumstances exist which make it desirable that his or her name should be entered in the Register
 - (d) The Adoption Board must seek the consent of the adoptive parents before making an entry in the Register under 3(c) above
- (4) The Adoption Board must notify any person whose name is entered in the Register where it identifies another person from whom he/she has been separated as a consequence of adoption or having been raised in care who has also entered his/her name in the Register.

(5) The Adoption Board having notified each party shall request written confirmation that they wish the Board to forward their contact details to the other party.

(6) The Voluntary Contact Register shall be exempt from the provisions of the Freedom of Information Act, 1997 and the Data Protection Act, 1988.

(7) The Voluntary Contact Register shall be subject to Regulations made under this Bill.

Head 14 : THE NATIONAL RECORDS INDEX

Provide that:

(1) All records in the State, held by information sources, pertaining to birth parents, adopted persons and others shall be indexed in a format to be known as The National Records Index.

(2) The Adoption Board shall be responsible for the establishment and maintenance of The National Records Index and notwithstanding anything contained in the Data Protection Act, 1988 the Adoption Board, for the purpose of its function under this Bill, may request from any Information Source, information or records held by or in the possession of that information source and it shall be provided to the Adoption Board as required.

(3) An Information Source shall be obliged to register the following information on the The National Records Index:

- (i) the name, address and telephone number of the information source
- (ii) the number of records held by the information source
- (iii) the period of time to which the records relate
- (iv) the birth name and any other name on record by which a person was known
- (v) the date of birth of each person named on record

(4) In the event of an Information Source failing to co-operate with the Adoption Board, the Board shall have the power under Head 3 to inspect, copy or seize records for the purpose of fulfilling its functions under this Section.

(5) Any individual or body with rights, responsibilities, or functions under this Bill shall have a right to and on making written application to the Adoption Board, detailing the purpose of their inquiry, be granted access to information from the Index pertaining to:

- (i) themselves, in the case of adopted persons, birth parents or others
- (ii) another person, in the case of an information source or organisation with functions under this Bill

(6) The National Index will be exempt from the provisions of the Freedom of Information Act, 1997 (as amended) and the Data Protection Act, 1988.

(8) The National Records Index shall be subject to Regulations made under this Bill.

HEAD 15 : ESTABLISHMENT OF A NATIONAL SEARCH SERVICE

Provide that:

(1) (i) A search service shall be provided to assist information sources in the provision of support services to search applicants by establishing the current location of a search subject, specific to the functions of this Bill

(ii) The search service is to be provided by the Adoption Board and is to be known as The National Search Service

(2) (i) The National Search Service may only be accessed by a designated person in the employment of an Information Source which is registered on the National Records Index or which is contracted, under Regulation to provide support services, and acting on behalf of a search applicant who has made application for support services under Head 17.

(ii) Designated person shall be as set out in Regulations made under this Bill.

(3) (i)(a) The National Search Service shall be exempt from the provisions of the Data Protection Act, 1988 in being a body specified as having the right to contact the data controller of another specified body, requesting to share information held by that specified body, solely for the purpose of Heads 16 and 17 of this Bill, such other specified bodies being set out in the Second Schedule of this Bill

(b) Data Controller has the same meaning as defined in section 1 of the Data Protection Act, 1988

(ii) The National Search Service having obtained information from a specified body may share that information with another specified body, who has a transaction with a natural person relating to a relevant purpose, where the relevant body seeking the information satisfies the data controller of the specified body holding the information that the information requested is relevant to the transaction for the said purpose between the person and the specified body seeking the information.

(4) On receipt of a request from a designated person in the employment of an information source, the National Search Service shall:

(i) Make application to access information, held by bodies specified in the Second Schedule of this Act, solely for the purpose of establishing the most recent contact address and telephone number of a search subject, or other information which might assist with the identification and location of a search subject

(ii) Forward the information, in confidence, to the designated person, and

(iii) Instruct the designated person that under no circumstances are the details received on the search subject to be released to the search applicant until such time as the search subject has been contacted by a professionally qualified social worker and his/her consent has been received in accordance with Regulations made under this

Bill.

(5) The National Search Service will be exempt from the provisions of the Freedom of Information Act, 1997 (as amended)

(6) The National Search Service shall be subject to Regulations made under this Bill

HEAD 16 : PROVISION OF SUPPORT SERVICES

Provide that:

(1) Support services to search applicants wishing to trace a search subject and, if acceptable to the search subject, be reunited with them, may be provided by information sources, with the exception of health boards which shall provide support services to applicants in accordance with Regulations made under this Bill

(2) A search applicant who chooses not to avail of the support services being offered by the information source holding the relevant records, may apply to the Adoption Board to have the records transferred to a health board or alternative information source which must be acceptable to the Adoption Board as being suitable to offer the necessary support services in accordance with the Regulations.

(3) (i) This support service shall be known as Tracing and Reunion and those providing such services shall make all reasonable efforts to trace a search subject. This service will be subject to Regulations made under this Bill.

(4) This service may only be availed of if:

- (i) a search subject has not placed a Veto on Contact, and
- (ii) a search applicant has exercised their rights under Heads 4, 5, 7, 8, 9 and 11 as appropriate.

(5) Those entitled to access this service shall include: (i) Adopted Persons (ii) Birth Parents (iii) Those raised in intermittent or continuous care.

(6) Those wishing to exercise their entitlement to this service shall:

(i) Apply in writing, with proof of identity, to the information source holding the relevant records, requesting the information source to trace a search subject on their behalf, in accordance with Regulations made under this Bill

or

(ii) Apply in writing, with proof of identity, to the Adoption Board stating:

(a) That they wish to avail of the support services of an information source other the one which holds the relevant records, in assisting them to trace a search subject, and

(b) Details of the preferred information source from whom they wish to seek support services and to whom the Adoption Board is to direct the transfer of records, and

(c) Attend for interview with the professionally qualified Social Worker handling the inquiry, as and when necessary, and

(d) Allow all contact with the search subject, if traced, to be made by the professionally qualified Social Worker only, and

(e) Entrust to the professionally qualified Social Worker the mediation of a reunion in cases where a search subject has been traced and is agreeable to such a reunion

(7) An Information Source on receiving a written request under (6) above shall:

(i) Arrange for a professionally qualified Social Worker to meet with the applicant, not later than eight weeks following receipt of an application, in order to ascertain:

(a) that the application meets with the requirements of(4) above, and

(b) their reasons for wishing to trace the search subject, and

(c) that they are aware of the significance of making the request and of the likely implications of same for themselves and the other party involved

(ii) Make application to the Adoption Board's National Search Service requesting that they access information held by the specified bodies listed in the Second Schedule of this Bill in order to establish the last known contact address and telephone number of the search subject in question

(iii) Ensure that the information obtained from the National Search Service is held in confidence by a professionally qualified Social Worker and not transmitted to the search applicant unless the written consent of the search subject has been obtained

(iv) Ensure that all contact prior to reunion, written, verbal, electronic or in person with the search subject, is undertaken by a professionally qualified Social Worker

- (v) Ensure that reunions, if agreed to by both parties, are mediated by a professionally qualified Social Worker
- (vi) Provide or arrange to have made available, counselling services in accordance with Regulations made under the Bill, if requested by the search applicant or the search subject.

(8) An Information Source receiving a written request under (6) above and not being in a position to provide support services in accordance with the Regulations made under the Bill shall transfer the relevant records to the State, which will provide the service on their behalf.

(9) The provision of Support Services shall be subject to Regulations made under this Bill

PART 6

Administration

HEAD17:REGULATIONS

Provide that:

(1) The Minister may provide, by regulations-

- (a) for any purpose for which regulations are provided for by any of the provisions of this Bill, and
- (b) for prescribing any matter or thing referred to in this Bill as prescribed or to be prescribed.

(2) Every Regulation under this Bill shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything done thereunder.

HEAD 18 : POWERS OF THE MINISTER

Provide that:

(1) The Minister may give general directions to-

- (i) The Adoption Board
- (ii) A Health Board
- (iii) An Information Source
- (iv) Any other organisation or body

in relation to the performance of the functions assigned to it by or under this Bill and it shall comply with any such direction.

(2) The Minister may cause

- (i) any record held by an information source to be accessed
- (ii) any premises holding records relevant to the functions of this Bill to be entered and! or inspected
- (iii) any records held by an information source to be copied or seized.

(3) The Minister may cause to be established or disestablished any requirement and or service for the purpose of this Bill

(4) The Minister may cause to be designated an authorised person where required by the Bill

HEAD 19 : FUNCTIONS AND POWERS OF THE ADOPTION BOARD

Provide that:

- (1) The Adoption Board, in relation to its functions, may direct - (i) A Health Board
(ii) An Information Sources
(iii) Any other organisation or body
in relation to adherence to procedure or to the performance of functions assigned to it
by or under this Bill and it shall comply with such direction. (2) The Adoption Board may -
(i) access any record held by an information source
(ii) enter and/or inspect any premises holding records relevant to the functions of this
Bill
(iii) accept, copy or seize any records held by an information source
(iv) direct an information source to release its records or a copy of its records to an
alternative information source, if considered necessary for the purposes of the Bill
(v) establish and disestablish, with the consent of the Minister, any service or requirement
necessary for the purposes of the Bill, including the establishment and disestablishment of
subcommittees as necessary.

HEAD 20 : FUNCTIONS AND POWERS OF THE HEALTH BOARDS

Provide that:

- (1) Health boards shall:
(i) comply with the directions of the Minister in relation to the performance of
functions assigned to them by the Bill
(2) Health boards may:
(ii) contract out, under regulations, the provision of services in whole or in part, under
the provisions of the Bill

HEAD 21 : EXPENSES

Provide that:

- (1) expenses incurred by the Minister in the administration of this Act shall, to such extent as
may be sanctioned by the Minister for Finance, be paid out of monies provided by the
Oireachtas.

HEAD 22: APPEALS PANEL

Provide that:

- (1) Those persons who have been notified in writing by the Adoption Board or an Information
Source, of the reasons why they are being denied access to an original birth or adoption
certificate, or information on record, may appeal the decision to the independent Appeals
Panel, established under this Bill.
- (2) The Appeals Panel, established by the Minister, shall be made up of persons with an interest
or expertise in adoption and the law. This panel, which shall be convened as required and
shall include a :
Social Worker, Psychologist, Member of the Medical Profession and
shall be chaired by a Solicitor or a Barrister
- (3) A person wishing to appeal a decision of the Adoption Board or an Information Source
shall:
(i) apply to the Appeals Panel in writing, enclosing a copy of the Adoption Board's or
Information Source's decision in the matter, and
(ii) state the reasons why they wish to have the decision appealed.
- (4) The Appeals Panel on receipt of a request under (3) above shall:

- (i) meet with the applicant and satisfy themselves as to the grounds for an appeal,
- (ii) request and be granted by the Adoption Board or Information Source, access to the file on the original decision to refuse the release of information,
- (iii) decide, based on the information available and the Panels independent view of the matter, whether there are sufficient grounds to uphold, alter or overturn the original decision,
- (iv) communicate their final decision in writing to both the applicant and the Adoption Board or Information Source which made the original decision to withhold information.

(5) The decision of the Appeals Panel shall be binding on the applicant and the Adoption Board or Information Source in question.

PART 7

Exemptions, Amendments and Repeals

HEAD 23 : EXEMPTIONS Provide that:

- (1) Notwithstanding the provisions of -
- (i) The Data Protection Act, 1988, and
 - (ii) The Freedom of Information Act, 1997 (as amended),
- the provisions of this Act shall prevail.

HEAD 24 : AMENDMENTS AND REPEALS

Provide that:

(1) Section 3 of the Adoption Act, 1974 is amended-
to allow Health Boards to meet the costs for both parties, birth parents and adoptive parents, of cases taken under this section, whether they qualify for legal aid or not, it being in the best interests of the child.

(2) Section 22(5) of the Adoption Act, 1952 is amended-
to allow An tArd-Chlaraitheoir to access, strictly for the purpose of fulfilling his duties under Heads 4,5 and 9 of this Bill, the index which makes traceable the connection between each entry and the corresponding entry in the register of births, where the Registrar General is satisfied that the adopted person having reached 18 year of age or a birth parent whose child has reached 19 years of age, has exercised their rights and obligations as appropriate, under the provisions of the Act.

(3) Section 8 of the Adoption Act, 1976 is deleted-
This Section states that "A court shall not make an order under S.22(5) of the Principal Act of an order for the discovery, inspection, production or copying of any book, document or record of the Board for any extracts there from, or otherwise in relation to the giving or obtaining of information therefrom unless it is satisfied that it is in the best interests of any child concerned to do so". However, in view of the fact that S. 22(5) is being amended, to allow the Registrar General to access the Register for fulfilling his functions under the Bill and that adopted persons and birth parents are being granted absolute rights to original certificates, following compliance with the procedures and obligations set out in the Bill, Section 8 of the Adoption Act, 1976, should be deleted.