

ADOPTION (INFORMATION AND TRACING) BILL 2019

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Acts referred to:

- Adoption Act 1952 (No. 25)
- Adoption Act 2010 (No. 21)
- Child and Family Agency Act 2013 (No. 40)
- Child Care Act 1991 (No. 17)
- Civil Registration Act 2004 (No. 3)
- Civil Registration Acts 2004 to 2015

- Data Protection Act 1988 (No. 25)
- Data Protection Acts 1988 and 2003
- Status of Children Act 1987
- Data Protection Act 2018
- General Data Protection Regulation

ADOPTION (INFORMATION AND TRACING) BILL 2019

Bill

Entitled

An Act to address the injustice caused by Ireland's closed, secret, forced adoption system and related historic abuse by giving effect to the four central tenants of Transitional Justice - justice, reparation, truth-telling, and guarantees of non-recurrence - in providing for a statutory right of adopted people to access their information; to provide for the automatic right of adopted persons over the age of 18 years to their birth certificates and adoption records; to provide for the acquisition and maintenance by an independent repository of records relating to the adoption, illegal adoption or placement in informal care arrangements of children; to provide for the maintenance and safeguarding of the National Adoption Contact Preference Register; to provide for the making available by the Child and Family Agency of a service for the tracing of certain persons, their natural relatives and other persons, and of a service for the provision of information to and facilitation of contact between such persons; to amend the Status of Children Act 1987; to amend the Adoption Act 2010; to amend the Child and Family Agency Act 2013; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Adoption (Information and Tracing) Act 2019
 (2) This Act comes into operation on such day or days as the Minister may appoint by order or orders, either generally or with reference to any particular purpose or provision, and different days may be appointed for different purposes or different provisions.

Interpretation

2. (1) In this Act -

“accredited body” has the same meaning as it has in the Act of 2010;

“Act of 2010” means the Adoption Act 2010;

“adopted child” means an adopted person who has not attained the age of 18 years;

“adoption order” has the same meaning as it has in the Act of 2010;

“adoption record” means any record relating to the matters referred to in (a), (b) or (c) that is obtained by the Independent Information Service in the performance by it of its functions under Part 2, 3, 4 or 5. For the purposes of these Parts, a relevant records include but are not limited to—

- (a) records relating to the circumstances which led to a person’s adoption or placement in informal care;
- (b) records of mother and baby homes or similar institutions involved with natural mothers and their children, including registers of births and deaths, any other log books, administrative records, records concerning vaccine trials;
- (c) records relating to any communications or enquiries made to the Authority, the Agency, an accredited body, a registered adoption society or any other person in relation to the placing of a child for adoption,
- (d) records containing personal data relating to an adopted person or a person who was placed in an informal care arrangement.

“adoptive parent” means, in relation to an adopted child, a person who has adopted her or him, and includes a person who is, for the time being, a guardian of the adopted child;

“adopted person” means a person -

- (a) adopted under an adoption order
- (b) born in the State and placed for adoption outside the State by An Bord Uchtala, a person or persons who was at the time a registered adoption society, the Authority or the Agency, and whose adoption was effected outside the State or
- (c) otherwise adopted in accordance with the law in force in the State at the time of adoption or
- (d) born outside the State to an Irish mother and placed for adoption in the State by An Bord Uchtala, a person or persons who was at the time a registered adoption society, the Authority or the Agency or
- (e) adopted illegally as defined under “illegal adoption” or
- (f) born outside the State and brought to the State for adoption, regardless of whether An Bord Uchtala or the Authority has sanctioned an Adoption Order.

“Agency” means the Child and Family Agency;

“authorised officer” means an authorised officer appointed under section 14(9);

“Authority” means the Adoption Authority of Ireland, as established by Section 94 of the Adoption Act 2010;

“Adoption Advisory Group” means the advisory group convened by the Minister as prescribed in Section 6 of this Bill.

“birth certificate” means the official document which records the adopted person's birth and identifies them by name, place, date of birth, and parentage;

“child” means a person who is under the age of 18 years;

“illegal adoption” means an illegal adoption, where any of the following situations occurred:

1. where a non-marital child was registered as the natural child of the adoptive parents without the natural mother’s knowledge or consent and no adoption order was made;
2. where a non-marital child was registered as the natural child of the adoptive parents and an adoption order was made;
3. where a marital child was registered as the natural child of the adoptive parents and no adoption order was made;
4. where a marital child was registered as the natural child of the adoptive parents and an adoption order was made;
5. where the adoptive parents were not resident in the state at the time of the adoption;
6. where a relinquished child over a year old was sent overseas for adoption without the consent and knowledge of the natural mother;
7. where informed consent was not given, as in the case of birthmothers who were minors who signed consents without a guardian or legal advisor present, without understanding the import of severing parental rights;
8. any adoption arranged by a private person or private body, not regarded as a ‘registered Adoption Agency’;
9. any adoption arranged by a registered adoption agency or other body for the purpose of financial gain.

‘Independent Archive’ means the independent, centralised national repository of adoption and related historic abuse records.

‘Independent Information Service’ means the information service provided to adopted people, natural parents and others as part of the Independent Archive’

“informal care arrangement” means an arrangement, other than a foster care arrangement or a private foster care arrangement, pursuant to which a child is placed in the long term care or custody of a person other than—

- (a) a natural parent or guardian of the child, or
- (b) a person who is, or becomes, the adoptive parent of the child

“information source” means—

1. the Agency;
2. the Department of Foreign Affairs and Trade;
3. any person who is, or has been, an accredited body;
4. a registered adoption society;
5. a person prescribed under section 7 to be an information source;
6. any agency, institution or individual who was involved in adoption placements or the placement of children in informal care arrangements;
7. any agency, institution or individual involved with unmarried mothers and their children in Ireland.

“maternity information” includes, in relation to a natural mother, all information relating to her antenatal care, her maternity care, her placement in any institution and the arrangements surrounding such placement, the birth and care of her child until such time as her guardianship of the child was legally severed, and her involvement in any process by which her guardianship of the child was legally severed, and further includes the identities of all people involved in such matters.

“medical information” means, in relation to an adopted person or a person who was the subject of an informal care arrangement, information relating to his or her medical history, including but not limited to, the medical history of the adopted person’s natural family, the original medical records concerning any vaccine trials in which the adopted person was a research subject, the original medical records for the adopted or informally placed person prior to their placement;

“Minister” means the Minister for Children and Youth Affairs”;

“National Adoption Contact Preference Register” means the National Adoption Contact Preference Register maintained by the Authority as prescribed in Section 15;

“natural family medical history” means, in relation to an adopted person or a person who was the subject of an informal care arrangement, information relating to the medical history of the natural family of the adopted or informally placed person which is likely to be of relevance to the physical or mental health of the adopted or informally placed person or a relative of that person;

“natural father” means, in relation to an adopted person or a person who was the subject of an informal care arrangement, the person who, at the time of the person’s birth, was his or her father;

“natural mother” means, in relation to an adopted person or a person who was the subject of an informal care arrangement, the person who gave birth to her or him;

“natural parent” means, in relation to an adopted person or a person who was the subject of an informal care arrangement, his or her natural mother or natural father;

“natural parent information”, in relation to an adopted person or a person who was the subject of an informal care arrangement, includes but is not limited to the following information relating to a natural parent of the person:

- (a) his or her age;
- (b) his or her civil status (within the meaning of section 2(1) of the Civil Registration Act 2004);
- (c) in the case of the person’s natural mother, and where applicable, the date of her entry into, and discharge from, the place at which the person’s birth took place;
- (d) the county in Ireland in which she or he resided;
- (e) the county or counties in Ireland in which she or he resided before the birth;
- (f) the places outside the State in which she or he resided before the birth;
- (g) his or her nationality, religion (if of any religion), race and ethnicity;
- (h) the education and training received by her or him;
- (i) his or her occupation;
- (j) his or her talents, hobbies and special interests;
- (k) his or her physical appearance, including his or her height, hair colour and eye colour
- (l) his or her contact details,
- (m) photographs,
- (n) his or her parents’ and grandparents’ occupations,
- (o) his or her marital status,
- (p) number of siblings in his or her family,
- (q) whether the natural parents’ families were aware of the adoption,
- (r) in the case of the person’s natural mother, whether any of her other children were adopted;
- (s) any other information which the natural parent may have provided.

“natural sibling” in relation to an adopted person or a person who was the subject of an informal care arrangement, a person who shares the same natural mother or natural father, or both, as her or him;

“personal data” has the meaning ascribed to it by the *Data Protection Act 2018* and the General Data Protection Regulation, which defines personal data in terms of a person’s “physical, physiological, genetic, mental, economic, cultural or social identity”. Under this Act, all records relating to the adoption or informal care arrangement of a person are considered to be that person’s personal data, regardless of whether that data is shared with another person. Personal data in relation to an adopted person or a person who was the subject of an informal care arrangement, includes but is not limited to:

- (a) Personal data in terms of the person’s physical, mental, and physiological identity, including but not limited to:
 - i. The person’s place of birth;
 - ii. Details of whether the adopted person was carried to full term, and if not, what precipitated early delivery and at what stage in the pregnancy;
 - iii. The person’s health status at birth;
 - iv. Details regarding the circumstances of the person’s birth, e.g. was it a normal birth or if there were complications;
 - v. The person’s birth weight;
 - vi. The person’s physical condition and circumstances during their early months and years;
 - vii. Records concerning the person’s early-life care;
 - viii. Records concerning the person’s health from birth until the time of placement;
 - ix. The person’s medical records from birth until the time of placement, including x-rays, tests, vaccines;
 - x. The person’s natural family’s medical history as described under “natural family medical history”.
 - xi. Where applicable, records of any vaccine trials in which the person was a research subject.

- (b) Personal data in terms of the person’s genetic identity, including but not limited to:
 - i. The person’s name at birth;
 - ii. The person’s natural mother’s forename and surname, as held in the public Register of Births or equivalent if the person’s natural mother was born outside of Ireland;
 - iii. The person’s natural father’s forename and surname, as held in the public Register of Births or equivalent if the person’s natural father was born outside of Ireland;
 - iv. The person’s natural relatives’ names, as held in the public Register of Births or equivalent if the person’s natural relative was born outside of Ireland.

- (c) Personal data in terms of the person's economic, cultural and social identity, both before and after their adoption or placement in informal care, relating to their economic, cultural and social identity both around the time of their birth and after their adoption or placement in informal care, and which relate to how the relevant person acquired their adoptive identity, including but not limited to:
- i. The person's name at birth, as held in the public Register of Births;
 - ii. The person's date of birth;
 - iii. The person's place of birth;
 - iv. The person's natural mother's forename and surname, as held in the public Register of Births or equivalent if the person's natural mother was born outside of Ireland;
 - v. The person's natural father's forename and surname, as held in the public Register of Births or equivalent if the person's natural father was born outside of Ireland;
 - vi. The person's natural relatives' names, as held in the public Register of Births or equivalent if the person's natural relative was born outside of Ireland;
 - vii. The person's county/country of origin at the time of their birth;
 - viii. The occupation of the person's natural parents and family members at the time of the person's birth;
 - ix. The person's natural parents' ages at the time of the person's birth;
 - x. The person's grandparents' occupations at the time of the person's birth;
 - xi. The number of siblings in the immediate family of the person's natural mother;
 - xii. The circumstances surrounding the person's adoption or informal care arrangement;
 - xiii. Correspondence about the person, including correspondence associated with the administrative process surrounding the person's adoption or informal care arrangement, and correspondence from the person's natural mother enquiring about the person;
 - xiv. The assessment process associated with the relevant person's adoption or informal care arrangement;
 - xv. The administrative process surrounding the relevant person's adoption or informal placement, including records about the decision-making process around the placement, correspondence with the adoptive parents and others, and how the relevant person acquired their adoptive/new identity;
 - xvi. The names of the people responsible for the relevant person's care during the relevant person's early weeks, months and years';
 - xvii. The place at which the person resided and the individual who was in charge of that place;

- xviii. Where applicable, the date and place of the person’s baptism or any other ceremony of a religious or spiritual nature performed in the period in respect of the person;
- xix. Where applicable, any person, agency or organisation who made arrangements for the person’s adoption, whether or not an adoption was effected in respect of the person;
- xx. Where applicable, the date on which the person was made the subject of a fostercare arrangement or placed with prospective adopters;
- xxi. Where applicable, the date on which the person was made the subject of an informal care arrangement;
- xxii. Information regarding whether the person’s natural mother was resident in any other institution offering social care/support either prior to or subsequent to the adopted person’s birth,
- xxiii. Information regarding whether the natural mother stayed at the institution with the adopted person prior to their placement with the adoptive parents;
- xxiv. Any anecdotal information regarding the adopted person’s stay in the institution
- xxv. If applicable, whether the person’s natural mother was transferred from the Mother and Baby Home to a Magdalene Laundry or other institution, and if so, details of the circumstances;
- xxvi. If applicable, whether the person’s natural mother was transferred from a Magdalene Laundry or another institution, to the Mother and Baby Home prior to giving birth and if so, details of the circumstances;
- xxvii. Whether the person’s natural mother gave informed consent to the adoption;
- xxviii. Whether the person’s natural mother was made aware of or offered any other choices apart from adoption;
- xxix. Whether the person’s natural mother received support after their adoption;
- xxx. Any letters, cards or other materials placed on the adoption file(s) by the person’s natural mother;
- xxxi. Any letters, cards or other materials placed on the adoption file(s) by the person’s natural father or other natural relatives;
- xxxii. Any letters, cards or other materials placed on the adoption file(s) by the person’s adoptive parents.

“personal materials” means letters, cards, photographs, gifts or other materials provided by the adopted or informally placed person or adoptive family for the person’s natural mother or family members, or letters, cards, photographs, gifts or other materials provided by the person’s natural mother or natural family member(s) for the adopted or informally placed person;

“private foster care arrangement” has the meaning it has in Part IVB of the Child Care Act 1991;

“record” means any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means;

“the register” means the National Adoption Contact Preference Register maintained by the Authority as prescribed in Section 15;

“register of births” means a register of births maintained by An tArd-Chláraitheoir under section 13(1)(a) of the Civil Registration Act 2004, as amended, or under the repealed enactments (within the meaning of that Act);

“registered adoption society” means a person who was a registered adoption society within the meaning of section 3 of the Adoption Act 1952;

“registered medical practitioner” has the same meaning as it has in the Medical Practitioners Act 2007;

“relative” means, in relation to a person, a parent, guardian, spouse, civil partner, grandparent, son, daughter, grandchild, brother, sister, uncle or aunt of the person—

- (a) whether the relationship is of the whole blood or half blood, or by marriage,
- (b) whether or not the relationship depends on the adoption or informal placement of a person, and
- (c) whether the relationship is traced through the mother or the father or, as the case may be, the natural mother or the natural father;

“relevant guardian” means, in relation to an adopted person, the person who, at the time of the adoption of the adopted person, was his or her guardian and—

- (a) consented, in accordance with section 26 of the Act of 2010, to the making of an adoption order in respect of the adopted person, or
- (b) otherwise, and in accordance with the law in force in the State at the time of the adoption, consented to the adoption;

(2) A reference in this Act to the making of arrangements for the adoption of a child shall be construed in accordance with sections 4 and 5 of the Act of 2010.

Regulations

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

Expenses

4. The expenses incurred by the Minister in the administration of this Act are, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, to be paid out of moneys provided by the Oireachtas.

Allocation of moneys for performance of functions

5. (1) The Agency shall, in each financial year, out of such moneys as are available to it for that financial year from moneys provided by the Oireachtas, allocate such amount as the Minister determines, with the consent of the Minister for Public Expenditure and Reform, for the operation and administrative costs arising from its obligations under this Act.

(2) The Authority shall, in each financial year, out of such moneys as are available to it for that financial year from moneys provided by the Oireachtas, allocate such amount as the Minister determines, with the consent of the Minister for Public Expenditure and Reform, for the operation and administrative costs arising from its obligations under this Act.

(3) The Independent Information Service shall, in each financial year, out of such moneys as are available to it for that financial year from moneys provided by the Oireachtas, allocate such amount as the Minister determines, with the consent of the Minister for Public Expenditure and Reform, for the operation and administrative costs arising from its obligations under this Act.

Adoption Advisory Group

6. (1) The Minister shall convene a permanent Adoption Advisory Group to inform the operation of this Bill.
- (2) The group shall be comprised of:
- (a) Representatives of groups advocating on behalf of adopted people;
 - (b) Representatives of groups advocating on behalf of natural parents;

- (c) A representative from the Authority;
 - (d) A representative from the Agency;
 - (e) A representative from the Department of Children and Youth Affairs.
- (3) The Minister, in consultation with the Adoption Advisory Group, may issue guidelines for the purpose of providing practical guidance to the Agency in respect of the performance by it of its functions under this Act.
- (4) Guidelines under this section may include:
- (a) the procedures to be followed for the purpose of locating a person under Section 20;
 - (b) the records, whether publicly available or otherwise, that are likely to be relevant for the purpose of Section 2(1).

PART 2

SAFEGUARDING RECORDS

Minister may prescribe person to be information source

7. The Minister may, for the purposes of paragraph (e) of the definition in section 2(1) of “information source”, prescribe to be an information source a person who the Minister reasonably believes has, at any time, made or attempted to make arrangements, whether legal or illegal, for the adoption of a child.

Independent Archive

8. (1) The State shall establish an independent, centralised national repository of adoption and related historic abuse records (the Independent Archive).

(2) The purpose of the Independent Archive shall be to gather and preserve personal information and administrative records relating to adoption, informal care arrangements and related historic abuses, and to make this information available to the persons affected through its Independent Information Service.

(3) The Independent Archive shall make the administrative and other anonymised records available to researchers and members of the public.

Information source or other person to transfer adoption records where directed by Independent Archive

9. (1) An information source (including the Agency) shall, not later than 3 months after the date on which this section comes into operation, or the date on which the person is prescribed under section 7 to be an information source, whichever is the later, furnish to

the Independent Archive a statement, in such form as may be specified by the Independent Archive, of the adoption records in its possession.

(2) Where an information source—

(a) has furnished a statement in accordance with subsection (1), and

(b) subsequent to such furnishing, becomes aware that a relevant record was in its possession on the date of the statement but was not included in the statement, it shall, as soon as practicable but in any event not later than 6 weeks after the date on which paragraph (b) applies, furnish to the Independent Archive a statement, in such form as may be specified by the Independent Information Service, of the record and of the reasons why the record was not included in the statement under subsection (1).

(3) A statement under subsection (1) or (2) shall state, in relation to the relevant record concerned, its nature, current location and condition.

(4) Where the Independent Archive receives a statement under subsection (1) or (2), it shall, not later than 6 months following such receipt and in accordance with subsection (5), issue to the information source concerned a direction in writing, directing it to transfer to the Independent Archive, on the date specified in the direction, the adoption records specified in the direction.

(5) The date specified in a direction under subsection (4) shall be—

(a) not later than 6 months after the date of the direction, or

(b) where the Independent Archive is not satisfied that it will be in a position to take the adoption records concerned into its charge by a date referred to in paragraph (a), such later date as is approved by the Minister.

(6) The Independent Archive may issue to a person, being a person other than an information source, who is in possession of a relevant record, a direction in writing directing the person to transfer to the Independent Archive, on the date specified in the direction, the records specified in the direction.

(7) The Independent Archive shall make all necessary arrangements in respect of the transfer to it of records pursuant to a direction under this section or pursuant to section 9, including all necessary arrangements to ensure safe receipt by it of the records concerned.

Information source or other person may transfer adoption record

10 (1) An information source, may transfer a relevant record to the Independent Information Service, notwithstanding that the Independent Archive has not issued it with a direction under section 7(4) in respect of the record concerned.

(2) A person, other than an information source, who is in possession of a relevant record, may transfer the relevant record to the Independent Archive, notwithstanding that the Independent Archive has not issued it with a direction under section 7(6) in respect of the record concerned.

Independent Archive to retain and obtain adoption records

- 11** (1) The Independent Archive shall, insofar as such records are held by it, retain adoption records in respect of each person who is the subject of an adoption order made before the date on which this section comes into operation.
- (2) Where, on or after the date on which this section comes into operation, the Authority makes an adoption order—
- (a) the Authority shall, insofar as such records are available to it, obtain and retain records in respect of the adopted child who is the subject of the order;
 - (b) an information source shall, not later than 3 months after the date on which the adoption order was made, transfer to the Independent Archive all records relating to the adoption concerned that are in the possession of the information source; and
 - (c) when the child reaches the age of 18, the Authority shall transfer all adoption records to the Independent Archive.
- (3) Where the Agency, in the performance of its functions under this Act, creates or obtains an adoption record, it shall transfer the record to the Independent Archive.

Independent Archive to maintain adoption records

- 12** (1) The Independent Archive shall maintain, in accordance with this section, all relevant records—
- (a) held by it on the date on which this section comes into operation;
 - (b) transferred to it pursuant to section 9,
 - (c) transferred to it under section 10,
 - (d) retained or obtained by it under section 10(1) or (2), or
 - (e) transferred to it under section 11;
- (2) The Independent Archive shall ensure that—
- (a) an index of the records referred to in subsection (1) is prepared, and
 - (b) a searchable electronic database of the records is created and maintained.
- (3) The Minister may, at any time, and in consultation with the Adoption Advisory group, issue guidelines in writing to the Independent Archive in relation to the performance by it of its functions under this section, and the Independent Archive shall comply with such guidelines.

Access to adoption records held under section 12

- 13** (1) Subject to this section, the Independent Archive shall grant access to the records held by it under section 12(1) and to the index and electronic database referred to in section 12(2) to the following persons only:
- (a) persons (whether employees of the Independent Archive or otherwise) authorised by the Independent Archive to access the records, index and database for the purpose of performance by it of its functions under section 12;

- (b) persons (whether employees of the Agency or otherwise) authorised by the Agency to access the records, index and database for the purpose of the performance by the Agency or an accredited body of its functions under Part 4.
- (2) A person who, having applied under Section 26 to the Independent Information Service for information, shall be provided with access to their personal data and any administrative records associated with their adoption and/or with any agencies, individuals or institutions involved with their adoption;
- (3) The Independent Information Service, on receipt of an application under subsection (2), shall make arrangements for the provision to the applicant of the records concerned.

Search powers

- 14** (1) An authorised officer may, for a purpose referred to in subsection (12), do any of the following:
- (a) subject to subsections (3) and (5), enter and inspect any place, being a premises of a person referred to in subsection (12) at which the Independent Archive has reasonable grounds to believe that a relevant record is being kept;
 - (b) at such place inspect and take copies of any relevant records (including records stored in non-legible form), or extracts therefrom, that she or he finds in the course of his or her inspection;
 - (c) require any person at any such place, including the owner or person in charge of the place, to produce to the authorised officer such records (and in the case of records stored in non-legible form, produce to her or him a legible reproduction thereof, as well as the original non-legible record) that are in that person's possession or procurement, or under that person's control, as that authorised officer may reasonably require for the purposes of his or her functions under this section;
 - (d) subject to an order being obtained for such purpose from the District Court under subsection (7), seize and retain any such records from such place and take any other steps which appear to the authorised officer to be necessary for preserving or preventing interference with such records;
 - (e) where there is data equipment at the place which the authorised officer reasonably believes is or has been used in connection with the production or storage of a relevant record, require any person—
 - (i) who uses the data equipment or on whose behalf the data equipment is used, or
 - (ii) having charge of, or who is otherwise concerned with the operation of, such equipment, to afford the authorised officer all reasonable assistance in relation to the operation of such equipment and any associated apparatus or material;
 - (f) require any person at the place concerned, including the owner or person in charge of that place, to give the authorised officer such information and assistance

as the authorised officer may reasonably require for the purposes of his or her functions under this section.

(2) Subject to subsection (5), an authorised officer may use reasonable force, if necessary, to enter a place referred to in subsection (1)(a), to exercise his or her powers under this section.

(3) An authorised officer may enter and inspect a place under subsection (1)—

(a) at any time during normal business hours with or without prior notice to the person in charge of the place where an authorised officer reasonably believes that relevant records are being kept at that place, and

(b) at any other time on reasonable notice to the person in charge of the place.

(4) When performing a function under this section, an authorised officer may, subject to any warrant under subsection (6), be accompanied by such number of other authorised officers or members of An Garda Síochána as she or he considers appropriate.

(5) An authorised officer shall not enter a dwelling other than—

(a) with the consent of the occupier, or (b) pursuant to a warrant under subsection (6).

(6) Upon the sworn information of an authorised officer, a judge of the District Court may, for the purposes of enabling an authorised officer to carry out an inspection of a place at which the authorised officer has reasonable grounds for believing a relevant record is being kept, issue a warrant authorising a named authorised officer accompanied by such other authorised officers or members of An Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter the place (if necessary by using reasonable force) and exercise the powers of an authorised officer under subsection (1).

(7) The District Court may, on application to it in that behalf by the authorised officer concerned, make an order authorising that officer, accompanied by such other authorised officers or members of An Garda Síochána as may be necessary, to exercise his or her powers under subsection (1)(d) where the Court is satisfied it is necessary for the purposes referred to in that subsection.

(8) The jurisdiction conferred on the District Court by this section shall be exercised by a judge of the District Court assigned to the District Court district in which the place referred to in subsection (1) is situate.

(9) The Authority may appoint in writing such persons or classes of person as it considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under this section.

(10) An authorised officer appointed under subsection (9) shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on her or him as an authorised officer, shall, if requested by a person affected, produce the warrant, or a copy of it, to that person.

(11) An appointment under this section as an authorised officer shall cease—

(a) if the Independent Archive revokes the appointment,

(b) if the appointment is for a fixed period, on the expiry of that period, or

- (c) in the case of a person who, on the date of the appointment, was a member of staff of the Authority, if she or he ceases to be a member of staff of the Authority.
- (12) The purposes referred to in subsection (1) are the purposes of ensuring compliance by—
 - (a) an information source with its obligations under this Act, or
 - (b) a person to whom a direction under section 9(6) is issued with the direction.
- (13) A reference in this section to a relevant record shall be construed, in the case of a person to whom subsection (12)(b) applies, as a reference to a relevant record specified in the direction referred to in that paragraph.
- (14) In this section, “place” includes—
 - (a) a dwelling or a part thereof,
 - (b) a building or a part thereof, and
 - (c) a vehicle, whether mechanically propelled or not.

PART 3

NATIONAL ADOPTION CONTACT PREFERENCE REGISTER

National Adoption Contact Preference Register

- 15** (1) The Authority shall continue to maintain the National Adoption Contact Preference Register (the register) by:
- a. safeguarding and maintaining existing registrations,
 - b. advertising the register both nationally and internationally at least every two years,
 - c. advertising the register on social media platforms.
- (2) The purpose of the register shall be to -
- (a) provide a service to people affected by adoption and informal care arrangements,
 - (b) provide a service to people affected by adoption and informal care arrangements who wish to register their preferences regarding contact with family members,
 - (c) record the name and contact details of persons to whom subsection (3) applies,
 - (d) record the statements made, or deemed to have been made, under *subsection (6)* by persons referred to in subsection (3),
- (3) The following persons may apply, in accordance with this section, to have an entry made in the register in respect of her or him:
- (a) a person who is, or who believes himself or herself to be, an adopted person or a person placed in informal care;
 - (b) a person who is, or who believes himself or herself to be, a natural parent;
 - (c) a person who is a relevant guardian in relation to an adopted person;

- (d) the adoptive parent of an adopted child, subject to approval by a guardian ad litem acting on behalf of the adopted child;
- (e) a relative of an adopted person or a person placed in informal care;
- (f) a natural relative of an adopted person or a person placed in informal care.

(4) An application under subsection (3) shall be made in such manner, and accompanied by such information, as the Authority, having regard to the matters referred to in subsection (2), may specify.

(5) A person may provide the Authority with a statement under subsection (6)—

- (a) when applying under subsection (3), or
- (b) where there is an entry in the register in respect of her or him.

(6) A person, in a statement under this subsection, may state, in relation to such person (“specified person”) as she or he may specify in the statement, whether she or he—

- (a) is seeking information in relation to the specified person and, if so, the nature of the information she or he is seeking,
- (b) is willing to provide information to the specified person and, if so, the nature of the information she or he is willing to provide,
- (c) is—
 - (i) seeking to have contact with the specified person,
 - (ii) willing to be contacted by the specified person,
 - (iii) with the exception of an adoptive parent of an adopted child, not willing to be contacted by the specified person at the moment.
 - (iv) not willing to be contacted by the specific person at the moment but willing to provide information,
 - (v) not willing to be contacted by the specific person at the moment, but would like to be notified if the specific person registers.

(7) The Authority, on receipt of an application made in accordance with *subsection (4)*, shall make an entry in the register in respect of the applicant concerned.

(8) A person who makes an application under Section 25 or Section 26 shall be given an opportunity to make an application to the register, and the Authority shall, on the basis of the information provided by the person in the application, make an entry in the register in respect of her or him.

(9) An entry in the register in respect of a person shall contain the following information:

- (a) his or her forename and surname (including any forename or surname previously used by her or him);
- (b) his or her date of birth, if known to her or him;
- (c) his or her address and such other contact details as the Authority may specify;
- (d) the paragraph of subsection (3) that applies to her or him;
- (e) any statement made by her or him under subsection (6);

(f) such details relating to a person specified by her or him in his or her statement under subsection (6) as she or he may provide.

(10) he person, in respect of whom there is an entry in the register, including an entry made under subsection (8), may, in such manner as may be specified by the Authority, request the Authority to—

(a) cancel the entry, or

(b) amend or remove any information, including a statement under subsection (6) contained in the entry.

(11) The Authority shall comply with a request made in accordance with subsection (10).

(12) The information, including a statement referred to in subsection (10)(e), contained in an entry in the register in respect of a person shall, for the purposes of this Act, be deemed to be accurate until the date on which the Authority receives a request in accordance with subsection (10) in relation to the information.

PART 4 TRACING

Interpretation (Part 4)

16 In this Part—

“accredited body” means an accredited body registered in the register of accredited bodies in respect of the activities referred to in section 4(k) of the Act of 2010;

Agency to provide tracing service

17 (1) The Agency shall take all reasonable steps, in accordance with any guidelines under section 20, to locate a person where—

(a) the person is specified in a statement made under section 14(6) (other than a statement under paragraph (c)(iii) of that subsection),

(b) it is requested under section 21 to facilitate contact between the person and a requester under that section.

(2) A person is specified in a statement made under section 14(6) shall not be compelled to avail of the tracing service provided by the Agency.

(3) The Agency shall employ trained genealogists to carry out the task of locating specified persons.

Agency may request information

18. (1) Subject to subsection (2), the Agency may request a person to provide it with, or with

access to, information that is in the possession of, or under the control of, the person.

(2) A request under subsection (1) may be made only where the Agency reasonably requires the information concerned for the purposes of enabling it to perform the functions referred to in section 17.

(3) Notwithstanding any enactment or rule of law, a person who receives a request made under subsection (1) shall comply with the request.

(4) Nothing in this section shall affect a person's right to their personal data under the General Data Protection Regulation or the Data Protection Act 2018.

Sharing of information

- 19.** (1) A relevant body may share an adoption record or other information with another relevant body if satisfied that the record or information is required by the other relevant body for the performance of its functions under this Act.
- (2) A relevant body that shares under subsection (1) a relevant record or other information shall do so in accordance with an agreement entered into under subsection (3) between it and the other relevant body concerned.
- (3) For the purposes of this section, there shall be entered into by a relevant body and each other relevant body with which it proposes to share information under subsection (1), an agreement ("data exchange agreement") which shall specify the procedures to be followed by each party to the agreement with respect to the sharing under that subsection of personal data.
- (4) A data exchange agreement may be varied by the parties to the agreement.
- (5) Where a relevant record or information is shared with a relevant body under subsection (1), the relevant body shall not disclose that record or information other than in accordance with this Act.
- (6) The Data Protection Acts 1988, 2003 and 2018 shall apply to information shared under this section.
- (7) In this section "relevant body" means—
- (a) the Independent Information Service,
 - (b) the Authority,
 - (c) the Agency,
 - (d) the Minister,
 - (e) the Department of Social Protection, and
 - (e) an accredited body that is authorised under section 22.

Guidelines and Training (Part 4)

- 20.** (1) The Minister may, in consultation with the Adoption Advisory Group issue guidelines for the purpose of providing practical guidance to the Agency in respect of the performance by it of its functions under this Part.

- (2) Guidelines under this section may include:
- (a) the procedures to be followed for the purpose of locating a person under section 17;
 - (b) the records, whether publicly available or otherwise, that are likely to be relevant for the purpose referred to in paragraph (a).
- (3) The Minister shall make arrangements for regular training for the staff and management of the Agency, the Independent Archive and Information Service and the Authority, the format of which shall be determined in consultation with the Adoption Advisory Group.
- (4) The staff and management of the Agency shall be required to attend regular training in the provision of tracing services.

Agency to facilitate contact between parties

- 21.** (1) A person (“requester”) may, in such manner as the Agency may specify, request the Agency to facilitate contact between her or him and a person (“specified person”) who she or he has specified in a statement made under section 14(6)(c)(i).
- (2) The trained genealogists employed by the Agency, on receipt of a request under subsection (1), shall, without undue delay, and in accordance with any guidelines under section 20, make every effort to locate the specified person concerned.
- (3) Where the trained genealogists employed by the Agency locate the specified person, the specified person shall make every effort to ascertain from her or him, insofar as is practicable, whether or not she or he is willing to have contact with the requester.
- (4) Where the specified person informs the Agency that she or he is not willing to have contact with the requester, the Agency shall inform the requester of that fact, and the specified person shall be provided with the contact details of peer support groups relevant to their situation.
- (5) Where a specified person informs the Agency that she or he is willing to have contact with the requester, the Agency shall inform both parties of their right to choose whether they:
- a) wish to proceed with contact without the assistance of the Agency, or
 - b) wish to proceed with contact with the assistance of the Agency,
 - c) Both parties shall be supplied with the contact details of peer support groups relevant to their situation’

Authority may authorise accredited body to perform functions under *Part 4*

- 22.** (1) The Authority may authorise an accredited body to perform the functions of the Agency under this Part.
- (2) An accredited body may perform the functions of the Authority referred to in subsection (1) only where authorised under that subsection to do so.

PART 5

PROVISION OF INFORMATION

Independent information service

23. (1) An Independent Information Service shall be established under the Independent Archive for the purpose of providing records, personal data and other information to adopted people, natural parents and others affected by adoption.

Persons who may apply for items and information

24. (1) A person who has attained the age of 18 years and who is, or who reasonably believes himself or herself to be, an adopted person or a person who was placed in informal care may, in such manner as may be specified by the Information Archive, apply to the Independent Information Service for the provision by the Independent Information Service to her or him of any or all records, personal data and other information held by the Independent Information Service or the Authority that relates or relate to her or him.
- (2) A person who is entitled to make an application under this Part may authorise, in writing and in such manner as may be specified by the Independent Information Service, another person, being a person who has attained the age of 18 years, to make the application on his or her behalf and, for the purposes of that application, to act on his or her behalf.
- (3) The Independent Information Service, in performing its functions under this Act in relation to an application to which subsection (2) applies, shall satisfy themselves as to the identity of a person authorised under this section to act on behalf of the applicant.
- (4) A person who has given an authorisation under subsection (2) may, at any time and in such manner as may be specified by the Independent Information Service, withdraw the authorisation.
- (5) The withdrawal under subsection (4) of an authorisation is without prejudice to anything previously done under it.

Application under s. 25(1) for birth certificate or adoption order

25. (1) An tArd-Chláráitheoir shall on an application made in the prescribed manner by an adopted person, a record of whose birth is kept by an tArd-Chláráitheoir and who has reached the age of 18 years supply to that person on payment of the prescribed fee (if any) such information as is necessary to enable that person to obtain a certified copy of the record of his/her birth.

- (2) It shall be the duty of the Independent Information Service to provide an information session to the adopted person, the format of which shall be prescribed in consultation with the Adoption Advisory Group. The information session shall serve the following purposes:
- (a) To inform the adopted person about the records held by the Independent Information Service about them;
 - (b) To provide the adopted person with information on how to read and understand adoption records;
 - (c) To inform the adopted person of the existence of the tracing service provided by the Agency;
 - (d) To inform the adopted person of the existence of the National Adoption Contact Preference Register.
- (3) An tArd-Chláraitheoir shall not supply a person who was adopted before the date on which this Act was passed with any information under subsections (1) and (2) of this section unless that person has attended an information session as prescribed under subsection (3) of this section.

Application under s. 26(1) for records and personal data

26. (1) The Independent Information Service shall, on an application made by an adopted person, natural parent, birth relative or other person affected by adoption, an informal care arrangement or related historic abuse, provide that person a) with all personal data held by the Independent Archive about that person (including the adoption order), and b) with all administrative records relating to that person's situation.
- (2) A natural parent of an adopted person, or a person who is a relevant guardian in relation to an adopted person, may apply to the Independent Information Service in such manner as may be specified by the Independent Information Service for the provision to her or him by the Independent Information Service of information held by the Authority or the Independent Information Service that is maternity information relating to themselves or is otherwise information that relates to themselves, or is information that relates to the adopted person.
- a. Where a natural parent of an adopted person, or a person who is a relevant guardian in relation to an adopted person, applies to the Agency for maternity information relating to themselves or other information that relates to themselves, that information shall be provided in its original form without redaction;
 - b. The Independent Information Service, on receipt of an application made in accordance with subsections (1) and (2), shall take all reasonable steps in accordance with any guidelines prescribed by the Adoption Advisory Group, to locate the adopted person concerned;

- c. The Independent Information Service shall contact the adopted person directly and not the adopted person's adoptive parents;
- d. The Independent Information Service shall inform the adopted person that information about themselves will be released to the natural parent;
- e. The adopted person will be given the opportunity to register their contact preference on the National Adoption Contact Preference Register;
- f. The natural parent will be informed of the adopted person's contact preference during the information session referred to in subsection (3).

(3) It shall be the duty of the Independent Information Service to provide an information session to any person who applies for records and personal data, the format of which shall be prescribed in consultation with the Adoption Advisory Group. The information session shall serve the following purposes:

- a. To inform the person about the records held by the Independent Information Service about them;
- b. To provide the person with information on how to read and understand adoption records;
- c. To inform the person of the existence of the tracing service provided by the Agency;
- d. To inform the person of the existence of the National Adoption Contact Preference Register.

(4) The Independent Information Service shall make an emergency telephone number available for adopted persons in life-threatening situations where medical information may be required immediately.

(5) The Independent Information Service shall treat the next of kin of a deceased person who would, but for their death, have fallen within the provisions of this section as if they were the applicant under subsection (1) or (2).

Natural parent of adopted child may apply for information and items

27. (1) A natural parent of an adopted child may apply to the Agency, in such manner as may be specified by the Agency, for the provision to her or him by the Agency of information or items referred to in subsection (6) relating to the adopted child.

(2) The Agency, on receipt of an application made in accordance with subsection (1), shall make every effort to—

- (a) inform an adoptive parent of the adopted child of the application, and

(b) require that the adoptive parent provide the Agency with the information or items to which the application relates, for the purpose of the transmission of these by the Agency to the natural parent concerned.

(3) The Agency shall engage a guardian ad litem to act as a representative for the adopted child.

(4) The adoptive parent, not later than one month after the date of receipt of the letter from the Agency, shall provide the Agency with the information or items to which the application relates, for the purpose of the transmission of these by the Agency to the natural parent concerned.

(5) When an adoptive parent, pursuant to a request under subsection (2)(b), provides the Agency with information and items, the Agency shall arrange for the transmission of these to the natural parent.

(6) the information and items referred to in this section can include but are not limited to—

- (a) information about the adopted child's health, social and educational development and general well-being,
- (b) letters, photographs or other mementoes relating to the adopted child,
- (c) any information or items recommended by the guardian ad litem acting as a representative for the adopted child,
- (d) any other information or items that an adoptive parent may wish to provide to the Agency for the purpose of its transmission to the birth parent.

(7) In this section, a reference to a natural parent of an adopted child includes a reference to a person who is a relevant guardian in relation to the adopted child.

Adoptive parent of adopted child may apply for records, information and items

28. (1) An adoptive parent may apply to the Agency, in such manner as may be specified by the Agency, for the provision to her or him by the Agency of information or items referred to in subsection (6) relating to his or her adopted child.

(2) The Agency, on receipt of an application made in accordance with subsection (1) shall—

- (a) locate in its own archive any records relating to the adopted child,
- (b) obtain records from any agencies and individuals involved in the child's adoption either within or outside Ireland,

- (c) make every effort to inform the natural parent of the adopted child of the application,
 - (i) where the child was adopted from a non-English speaking country, the Agency shall engage a competent interpreter to ensure effective communication with the natural parent(s).
- (d) request that the natural parent provide the Agency with the information or items to which the application relates, for the purpose of the transmission of the information or items by the Agency to the applicant, and
- (e) engage a guardian ad litem to act as a representative for the adopted child.

(3) When a natural parent, pursuant to a request under subsection (2), provides the Agency with information or items, the Agency shall arrange for the transmission of the information or items to the adoptive parent concerned.

- (a) where the child was adopted from a non-English speaking country, the Agency shall engage a competent translator to ensure an accurate translation of any items which are not in English.

(4) The Agency may facilitate the implementation of an arrangement between a natural parent and an adoptive parent of an adopted child relating to the provision to the adoptive parent by the natural parent of information or items referred to in subsection (5)

(5) The records, information and items referred to in this section include but are not limited to—

- (a) information relevant to the adopted child's health, social and educational development and general well-being,
- (b) letters, photographs or other mementoes,
- (c) medical information,
- (d) medical information relating to a natural relative,
- (e) records relating to the adopted child's placement before adoption,
- (f) the adopted child's birth certificate,
- (g) the name of the child's natural mother,
- (h) the name of the child's natural father,
- (i) a copy of an adoption order made in respect of the adopted child
- (j) any information or items recommended by the guardian ad litem acting as a representative for the adopted child, and
- (k) any other information or items that a natural parent may wish to provide to the Agency for the purpose of its transmission to the adoptive parent.

(7) In this section, a reference to a natural parent of an adopted child includes a reference to a person who is a relevant guardian in relation to the adopted child

PART 6
MISCELLANEOUS

Agency to provide support and guidance

- 29.** (1) The Agency may, in consultation with the Adoption Advisory Group, provide, when requested, support and guidance to any person affected by adoption and related historic abuses.
- (2) The Authority, with the approval of the Minister, and in consultation with the Adoption Advisory Group, shall publish guidelines regarding the provision of support and guidance to persons under this section

Offences

- 30.** (1) A person who is an information source and who conceals, destroys, mutilates or falsifies a relevant record shall be guilty of an offence.
- (2) A person who is an information source and who fails to comply with a direction of the Independent Archive under section 9(4) shall be guilty of an offence.
- (3) A person who fails to comply with a direction of the Independent Archive under section 9(6) shall be guilty of an offence.
- (4) A person who facilitates an illegal adoption shall be guilty of an offence.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or
 - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.
- (6) Where an offence under this section is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if she or he were guilty of the first-mentioned offence.

Amendment of section 14(a) the Act of 2010

- 31.** Section 14(a) of the Act of 2010 is amended—

- (a) in subparagraph (iii), by the substitution of “guardian,” for “guardian, and”, and
- (b) by the insertion of the following subparagraph after subparagraph (iii):

“(iiia) the effect of Parts 2, 3, 4 and 5 of the Adoption (Information and Tracing) Act 2019, and”.

Amendment of section 17(2) of the Act of 2010

- 32.** Section 17(2) of the Act of 2010 is amended—
- (a) in paragraph (b), by the substitution of “adoption,” for “adoption, and”, and
 - (b) by the insertion of the following paragraph after paragraph (b):
 - “(ba) explaining to him the effect of Parts 2, 3, 4 and 5 of the Adoption (Information and Tracing) Act 2019, and”.

Amendment of section 37 of the Act of 2010

- 33.** Section 37 of the Act of 2010 is amended by the insertion of the following subsection after subsection (3):
- “(3A) The information, advice and counselling referred to in subsection (1) shall include information on the effect of Parts 2, 3, 4 and 5 of the Adoption (Information and Tracing) Act 2019.”.

Amendment of section 89 of the Act of 2010

- 34.** Section 89 of the Act of 2010 is amended by deleting subsection (2) in its entirety.

Amendment of section 96(1) of the Act of 2010

- 35.** Section 96(1) of the Act of 2010 is amended—
- (a) in paragraph (h) by the substitution of “section 91A(3);” for “section 91A(3).”, and
 - (b) by the insertion of the following paragraph after paragraph (h): 5 “(i) performing the functions conferred on it by the Adoption (Information and Tracing) Act 2016.”.

Amendment of section 98 (3) of the Act of 2010

- 36.** Section 98 (3) of the Act of 2010 is amended by the insertion of the following subsections after subsection (3) (e)—
- (f) a person who has been the subject of a domestic adoption who shall be over 21 years at the time of their appointment to the Authority, and
 - (g) a person who has been the subject of an inter-country adoption who shall be over 21 years at the time of their appointment to the Authority;
 - (h) a natural mother who has relinquished a child for adoption.

Amendment of section 126 of the Act of 2010

- 37.** Section 126 of the Act of 2010 is amended by the insertion of the following subsection after subsection (4)—

(5) Tusla: The Child and Family Agency shall be registered as an accredited body and thus regulated by the Authority.

Amendment of section 8 of Child and Family Agency Act 2013

38. Section 8 of the Child and Family Agency Act 2013 is amended—
(a) in paragraph (f), by the substitution of “request,” for “request, and”, 10 (b) in paragraph (g), by the substitution of “Agency, and”, for “Agency.”, and
(c) by the insertion of the following paragraph after paragraph (g):
“(h) perform the functions conferred on it by the Adoption (Information and Tracing) Act 2016.”.

Amendment of Section 35 (1)(a) of the Status of Children Act 1987

39. Section 35 (1)(a) of the Status of Children Act 1987 amended by removing “(other than an adopted person)”.

Amendment of Section 35 (1)(b) of the Status of Children Act 1987

40. Section 35 (1)(b) of the Status of Children Act 1987 amended by removing “(other than an adopted person)”.