

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: ADOPTION AND CONTACT

Adoption

Section 7 and Schedule 1: The Adoption and Children Act Register

71. This section amends the provisions in the 2002 Act that provide for the establishment of an Adoption and Children Act Register (“the register”) of children suitable for adoption and prospective adopters who are suitable to adopt a child.
72. *Subsection (2)* amends section 125(1)(a) of the 2002 Act to allow for the inclusion in the register of prescribed information about children who are being considered for adoption by an English local authority. This is intended to enable details of looked after children to be included in the register where the local authority are considering adoption as an option for them, or they are satisfied that the child ought to be placed for adoption but they are not authorised to do so either by parental consent or a placement order. These children may be placed with local authority foster parents who are also approved prospective adopters under new section 22C(9A) of the Children Act 1989 (see section 2). This subsection also amends section 125(3) of the 2002 Act to remove any doubt that the restriction is subject to regulations made under section 128A (as inserted by *subsection (4)*).
73. A new section 125(1A) is inserted into the 2002 Act to provide that regulations may enable the register to contain prescribed information about children that Welsh, Scottish or Northern Irish adoption agencies are satisfied are suitable for adoption and prospective adopters that they are satisfied are suitable to adopt a child (*paragraph 2(3)* of Schedule 1).
74. *Subsection (3)* amends section 128(4)(b) of the 2002 Act to provide that consent needs to be given by a prescribed person if information about a child who is being considered for adoption by an English local authority is to be disclosed to the Secretary of State or the registration organisation.
75. *Subsection (4)* inserts a new section 128A into the 2002 Act, which provides for regulations to allow for the search and inspection of the register by prospective adopters who are suitable to adopt a child to enable them to identify a child on the register for whom they might be appropriate adopters. A prospective adopter is suitable to adopt a child if an adoption agency is satisfied that they are suitable to have a child placed with them for adoption (section 131(2)(b)). The regulations may restrict access to certain parts of the register only, or only to specified content on the register (*subsection (2)* of section 128A) and the regulations may also set out terms and conditions of access to the register (*subsection (3)* of section 128A). *Subsection (4)* of section 128A provides that regulations may prescribe the steps that prospective adopters must follow in relation to the information they have received through their search of the register. *Subsection (5)* of section 128A provides that the regulations may prescribe the payment of a fee

*These notes refer to the Children and Families Act 2014
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to the Secretary of State or the registration organisation by the prospective adopters for the searching or inspecting of the register. The first set of regulations made under section 128A will be subject to the affirmative resolution procedure (*subsection (6)* of section 128A).

76. Section 129(1) of the 2002 Act is amended to provide that information entered in the register, or compiled from information entered in the register, may also be disclosed under the regulations made under section 128A of the 2002 Act (*paragraph 6* of Schedule 1). *Paragraph 6* of Schedule 1 inserts a new section 129(2A) which provides for regulations to permit the disclosure of prescribed information entered in the register or compiled from information entered in the register to adoption agencies in England, Wales, Scotland and Northern Ireland and to the registers in Scotland, Wales and Northern Ireland. Section 129(4) is amended to provide that regulations may prescribe the steps to be taken by adoption agencies in respect of information disclosed to them under new section 129(2A) and section 129(7) is amended to provide that regulations may require Welsh, Scottish or Northern Irish adoption agencies, as well as adoption agencies in England, to pay a prescribed fee in prescribed circumstances and to provide that the regulations may require any person to whom information is disclosed under new section 129(2A) to pay a prescribed fee.
77. *Subsection (5)* amends section 129(2)(a) to provide that prescribed information entered in the register may be disclosed where an adoption agency in England is acting on behalf of a child for whom they are considering adoption.
78. *Subsection (6)* amends section 140(7) to provide that subordinate legislation made under the 2002 Act may make different provision for different areas. This will enable the regulations made under section 128A to apply in certain local authority areas only.
79. *Subsection (7)* inserts a new *subsection (6A)* into section 97 of the Children Act 1989 to provide that entering information on the register under section 125 of the 2002 Act or accessing information, in accordance with any regulations made under the new section 128A of the 2002 Act, would not be an offence under section 97 of the 1989 Act.
80. *Subsection (8)* introduces Schedule 1 which amends the 2002 Act to provide for the removal of the requirement to make provision for the register by Order in Council, and for that register not to apply to Wales or Scotland.