



Statutory Document No. 176/03

THE ADOPTION ACT 1984

THE ADOPTION (HAGUE CONVENTION) REGULATIONS 2003

Approved by Tynwald

2003

Coming into operation

1st October 2003

In exercise of the powers conferred on the Department of Health and Social Security by sections 6, 6A and 14(3) of the Adoption Act 1984¹, and of all other enabling powers, the following Regulations are hereby made:—

PART 1

GENERAL

1. Citation, commencement and interpretation

(1) These Regulations may be cited as the Adoption (Hague Convention) Regulations 2003 and, subject to section 53 of the Act, shall come into operation on the 1st October 2003.

(2) In these Regulations —

"the 1985 Regulations" means the Adoption Societies Regulations 1985²;

"accredited agency" means —

(a) the Department, or

(b) an approved adoption society which by virtue of section 6B(2) of the Act is an accredited body for the purposes of the Convention;

"the Act" means the Adoption Act 1984;

"adoption panel" means —

(a) in relation to the Department, such body of persons as the Department may establish for the purpose of exercising the functions of an adoption panel under these Regulations;

(b) in relation to an approved adoption society, the panel established by the society under regulation 3 of the 1985 Regulations;

¹ 1984 c.14

² GC 284/85

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"contact order" means an order under section 11(1)(b) of the Children and Young Persons Act 2001³;

"the Convention" means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993⁴;

"country of origin" means a country or territory which is, or is part of, the State of origin (within the meaning of the Convention);

"the Department" means the Department of Health and Social Security;

"eligible to adopt", except in regulation 7(4)(a), has the meaning given in regulation 4(3);

"prospective adopter" means a married couple or person who makes an application under regulation 2;

"receiving country" means a country or territory which is, or is part of, the receiving State (within the meaning of the Convention).

PART 2

PROCEDURE WHERE THE ISLAND IS THE RECEIVING COUNTRY

2. Application to adopt

(1) A married couple or a person habitually resident in the British Islands who wishes to adopt a child habitually resident in a Convention country outside the British Islands under the Convention shall apply to an accredited agency for assessment of his suitability to be an adoptive parent.

(2) An application under this regulation shall be made in writing and include such information as the agency may require.

3. Eligibility requirements

An accredited agency may not consider a person eligible to adopt unless the application under regulation 2 is made by a married couple or one person and —

(a) in the case of an application by a married couple they have both —

(i) attained the age of 21 years, and

(ii) been habitually resident in any part of the British Islands for a period of not less than 1 year ending with the date of the application; or

(b) in the case of an application by one person, he —

(i) has attained the age of 21 years, and

³ 2001 c.20

⁴ Cm 2691

- (ii) has been habitually resident in any part of the British Islands for a period of not less than 1 year ending with the date of the application.

4. Requirement to provide counselling and information

(1) Where an application is made under regulation 2, the accredited agency shall —

- (a) provide a counselling service for the prospective adopter;
- (b) explain to him the legal implications of adoption and the procedure in relation to adopting a child under the Convention; and
- (c) provide him with written information about the matters referred to in sub-paragraph (b).

(2) Paragraph (1) does not apply if the agency is satisfied that the requirements set out in paragraph (1) have been carried out in respect of the prospective adopter by another accredited agency.

5. Requirement to carry out police checks

(1) An accredited agency shall take such steps as are practicable to obtain information about any previous criminal convictions of the prospective adopter and any members of his household aged 18 or over and any cautions given by a constable in respect of criminal offences to the prospective adopter and any such member.

(2) An agency shall not consider a person to be suitable to be an adoptive parent if he or any member of his household aged of 18 or over —

- (a) has been convicted of an offence specified in Schedule 1; or
- (b) has been cautioned by a constable in respect of such an offence which, at the time the caution was given, he admitted.

6. Requirement to notify

(1) The accredited agency shall notify a prospective adopter in writing as soon as possible after becoming aware that —

- (a) he is not eligible to adopt because he does not meet the requirements of regulation 3; or
- (b) he is not suitable to be an adoptive parent by virtue of regulation 5.

(2) In a case to which paragraph (1)(b) applies the notification shall specify the conviction or caution in question.

7. Procedure in respect of carrying out an assessment

(1) Where the accredited agency —

- (a) is satisfied that the prospective adopter is eligible to adopt in accordance with the provisions in regulation 3, and
- (b) considers he may be suitable to be an adoptive parent following any information provided or made available as a consequence of the carrying out of the requirements imposed by regulation 4 or otherwise,

it shall set up a case record in respect of him and place on it any information obtained under regulation 4 or otherwise.

(2) The accredited agency shall obtain such particulars as are referred to in Part VI of the Schedule to the 1985 Regulations together with, so far as is reasonably practicable, any other relevant information which may be required by the adoption panel.

- (3) The accredited agency shall obtain a written report —
 - (a) from a registered medical practitioner about the health of the prospective adopter which must deal with matters specified in Part VII of the Schedule to the 1985 Regulations;
 - (b) about the premises where the prospective adopter intends to live with any child who might be adopted by him; and
 - (c) of each of the interviews with the persons nominated by the prospective adopter to provide personal references for him;

and in a case where the agency is not the Department, it must also obtain a written report about him from the Department.

- (4) The accredited agency shall prepare a written report which must —
 - (a) state the Convention country from which the prospective adopter wishes to adopt a child, confirm that he is eligible to adopt a child under the law of that Convention country and provide any other information which that Convention country usually requires;
 - (b) include the agency's assessment of the prospective adopter's suitability to be an adoptive parent;
 - (c) include any other observations of the agency on the matters referred to in regulations 2 to 5 and this regulation; and
 - (d) include information and observations regarding the prospective adopter's identity, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption as well as the characteristics of the children for whom they would be qualified to care and any other information which may be relevant.

(5) The accredited agency shall notify the prospective adopter that his application is to be referred to the adoption panel and at the same time send him a copy of the agency's report referred to in paragraph (4), inviting him to send any observations in writing to the agency on the report within 28 days, beginning with the date on which the notification was sent.

(6) At the end of the period of 28 days referred to in paragraph (5), (or earlier if any observations made by the prospective adopter are received before the 28 days have expired), the accredited agency shall pass the report referred to in

paragraph (4) together with all relevant information obtained by it under this regulation (including the prospective adopter's observations on the report), to the adoption panel.

8. Function of adoption panel

- (1) Subject to paragraph (2), the adoption panel shall —
 - (a) consider the case of the prospective adopter referred to it by the accredited agency, and
 - (b) make a recommendation to the agency as to whether the prospective adopter is suitable to be an adoptive parent.
- (2) In considering what recommendation to make, the panel —
 - (a) shall consider and take into account all information and reports passed to it in accordance with regulation 7(6);
 - (b) may request the accredited agency to obtain any other relevant information which the panel considers necessary; and
 - (c) may obtain legal advice as it considers necessary in relation to the case.

9. Adoption agency decision and notification

(1) The accredited agency shall take into account the recommendation of the adoption panel in coming to a decision about whether the prospective adopter is suitable to be an adoptive parent.

(2) No member of an adoption panel shall take part in any decision made by the agency under paragraph (1).

(3) If the agency decides to approve the prospective adopter as suitable to be an adoptive parent, it shall notify him in writing of its decision.

(4) If the agency considers that the prospective adopter is not suitable to be an adoptive parent, it shall —

- (a) notify the prospective adopter in writing that it proposes not to approve him as suitable to be an adoptive parent;
- (b) send with that notification its reasons together with a copy of the recommendations of the adoption panel, if different; and
- (c) invite the prospective adopter to submit any representations he wishes to make within 28 days.

(5) If within the period of 28 days referred to in paragraph (4), the prospective adopter has not made any representations, the agency may proceed to make its decision and shall notify the prospective adopter in writing of its decision together with the reasons for that decision.

(6) If within the period of 28 days referred to in paragraph (4), the agency receive further representations from the prospective adopter, it may refer the case

together with all the relevant information to the adoption panel for further consideration.

(7) The adoption panel shall reconsider any case referred to it under paragraph (6) and make a fresh recommendation to the agency as to whether the prospective adopter is suitable to be an adoptive parent.

(8) The agency shall make a decision on the case but if the case has been referred to the adoption panel under paragraph (6) it shall make the decision only after taking into account any recommendation of the adoption panel made under paragraph (7).

(9) As soon as possible after making the decision under paragraph (8), the agency shall notify the prospective adopter in writing of its decision, stating its reasons for that decision if it does not consider the prospective adopter to be suitable to be an adoptive parent, and of the adoption panel's recommendations, if they are different from the agency's decision.

10. Procedure following approval by accredited agency

(1) Where the accredited agency (being the Department) is satisfied that the prospective adopter is eligible to adopt and has approved him as suitable to be an adoptive parent, it shall send to the Central Authority of the country of origin —

(a) a certificate in the form set out in Schedule 2 confirming that —

- (i) the prospective adopter is eligible to adopt, has been assessed in accordance with these Regulations and has been approved as suitable to be an adoptive parent; and either
- (ii) in the case where the requirements specified in section 1(5A) of the British Nationality Act 1981 (an Act of Parliament)⁵ are met, the child will be authorised to enter and reside permanently in the Island; or
- (iii) in any other case, if entry clearance and leave to enter and remain, as may be necessary, are granted and not revoked or curtailed and a Convention adoption order or a Convention adoption is made, the child will be authorised to enter and reside permanently in the Island;

(b) a copy of the agency's decision; and

(c) a copy of the report prepared for the purpose of regulation 7(4);

and notify the prospective adopter in writing that the certificate and the documents have been sent to that Authority.

(2) Where the accredited agency (not being the Department) is satisfied that the prospective adopter is eligible to adopt and has approved him as suitable to be an adoptive parent ("its decision") it shall send to the Department —

(a) written confirmation of its decision; and

⁵ 1981 c.61

- (b) a copy of the report prepared for the purpose of regulation 7(4).
- (3) The Department may seek further information from the accredited agency, if it considers it is appropriate to do so.
- (4) If the Department is satisfied that the agency have complied with these Regulations and that all the relevant information has been supplied by that agency, the Department shall —
 - (a) send to the Central Authority of the country of origin the documents referred to in paragraphs (1)(a) and (2)(a) and (b); and
 - (b) notify the agency and the prospective adopter in writing that those documents have been sent to that Authority.

11. Procedure following receipt of Article 16 information from country of origin

(1) This regulation applies where the Department receives from the Central Authority of the country of origin the Article 16 information relating to a child who that Authority considers should be placed for adoption with the prospective adopter.

(2) Where an approved adoption society is the accredited agency dealing with the case, the Department shall send that information to the agency, who shall —

- (a) consider the Article 16 information;
- (b) send that information to the prospective adopter;
- (c) meet with him to discuss that information and the proposed placement; and
- (d) if appropriate, offer a counselling service and further information as required.

(3) Where —

- (a) the procedure in paragraph (2) has been followed;
- (b) the prospective adopter (where the prospective adopters are a married couple, each of them) has visited the child in the country of origin;
- (c) after that visit to the child, the prospective adopter confirmed in writing that he —
 - (i) has visited the child, and
 - (ii) wishes to proceed to adopt the child; and

(d) the agency is content that the adoption should proceed, the agency shall notify the Department accordingly.

(4) Where the Department is the accredited agency dealing with the case, it shall —

- (a) consider the Article 16 information;
- (b) send that information to the prospective adopter;

- (c) meet with him to discuss the Article 16 information Report and the proposed placement; and
- (d) if appropriate, offer a counselling service and further information as required.
- (5) Where —
 - (a) an approved adoption society is the accredited agency dealing with the case and has given notification to the Department under paragraph (3), or
 - (b) the Department is the accredited agency dealing with the case and —
 - (i) the steps set out in paragraph (4) have been taken,
 - (ii) the prospective adopter (where the prospective adopters are a married couple, each of them) has visited the child in the country of origin;
 - (iii) after that visit to the child, the prospective adopter confirmed in writing that he has visited the child, and wishes to proceed to adopt the child; and
 - (iv) the Department is content that the adoption should proceed.

the Department shall take the steps specified in paragraph (6).

- (6) The Department shall in those circumstances —
 - (a) notify the Central Authority of the country of origin that —
 - (i) the prospective adopter wishes to proceed to adopt the child; and
 - (ii) it is prepared to agree with that Authority that the adoption may proceed; and
 - (b) confirm to that Authority that —
 - (i) in the case where the requirements specified in section 1(5A) of the British Nationality Act 1981 (an Act of Parliament)⁶ are met, the child will be authorised to enter and reside permanently in the Island; and
 - (ii) in any other case, if entry clearance and leave to enter and remain, as may be necessary, are granted and not revoked or curtailed and a Convention adoption order or a Convention adoption is made, the child will be authorised to enter and reside permanently in the Island.

(7) The Department shall inform the prospective adopter and, if it is not the accredited agency dealing with the case, that agency when the agreement under Article 17(c) of the Convention has been made.

(8) If, at any stage before the agreement under Article 17(c) of the Convention is made, the Central Authority of the country of origin notifies the Department that it has decided that the proposed placement should not proceed —

⁶ 1981 c.61

- (a) the Department shall inform the prospective adopter of the Authority's decision;
 - (b) if the Department is not the accredited agency dealing with the case —
 - (i) the Department shall inform that agency of the decision, and
 - (ii) the agency shall return the documents referred to in paragraph (2) to the Department; and
 - (c) the Department shall return those documents to the Authority.
- (9) If, at any stage before the child is placed with him, the prospective adopter notifies the accredited agency that he does not wish to proceed with the adoption of the child —
- (a) if the Department is not that agency, the agency shall inform the Department of the prospective adopter's decision and return the documents referred to in paragraph (2) to the Department; and
 - (b) the Department shall notify the Central Authority of the country of origin of the decision and return those documents to the Authority.
- (10) Following any agreement under Article 17(c) of the Convention and the placement of the child by the accredited agency with the prospective adopter, the prospective adopter must accompany the child on entering the Island unless, in the case of an application by spouses, the agency and the Central Authority of the country of origin have agreed that it is necessary for only one of them to do so.
- (11) For the purposes of this regulation "the Article 16 information" means —
- (a) the report referred to in Article 16(1) of the Convention including information about the child's identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
 - (b) proof of confirmation that the persons, institutions and authorities whose consents is necessary for adoption have been obtained in accordance with Article 4 of the Convention;
 - (c) the reasons for the determination by the Central Authority of the country of origin on the placement.

12. Duty of agency before child's arrival in the Island

Where the agreement under Article 17(c) of the Convention has been made and (where the accredited agency is not the Department) the accredited agency has been informed of it, the agency shall —

- (a) send a written report of the child's health history and current state of health, so far as it is known, to the prospective adopter's registered medical practitioner, if any, together with particulars of the placement; and
- (b) if the child is of compulsory school age or the agency's medical adviser considers the child to have special needs or to be disabled,

notify the Department of Education in writing of the particulars of the placement.

13. Requirements following arrival of child in the Island but no Convention adoption is made in country of origin

Regulations 14 and 15 apply where, following agreement between the Department and the Central Authority of the country of origin under Article 17(c) of the Convention that the adoption may proceed, —

- (a) no Convention adoption is made or applied for in the country of origin, but
- (b) the child is placed with the prospective adopter by that Authority, and
- (c) he then returns to the Island with the child.

14. Duties of prospective adopter

(1) In the circumstances specified in regulation 13 the prospective adopter shall, within the period of 14 days beginning with the date on which he brings the child into the Island, give notice to the Department of —

- (a) his intention to apply for an adoption order to be made as a Convention adoption order in accordance with section 7 of the Act; or
- (b) his intention not to give the child a home.

(2) The prospective adopter with whom the child is placed is not required to allow the child to visit or stay with any person, or otherwise to allow contact between the child and any person, except under a contact order.

(3) Subject to paragraphs (4) and (5), the prospective adopter may not cause or permit —

- (a) the child to be known by a new surname; or
- (b) the child to be removed from the Island,

unless the High Court gives leave or the Department agrees.

(4) Paragraph (3)(a) does not apply if the competent authority of the country of origin have agreed the child may be known by a new surname.

(5) Paragraph (3)(b) does not prevent the removal of the child for a period of less than one month by the prospective adopter.

(6) Where —

- (a) the child is placed with the prospective adopter or regulation 16 applies, and
- (b) the prospective adopter gives notice to the Department that he does not wish to proceed with the adoption and no longer wishes to give the child a home,

the Department shall receive the child from him before the end of the period of 7 days beginning with the giving of the notice.

(7) Subject to paragraph (8), where the Department is of the opinion that the continued placement of the child with the prospective adopter is not in the child's best interests and the child should not remain with the prospective adopter —

- (a) the Department shall give notice to him of its opinion; and
- (b) the prospective adopter shall, not later than the end of the period of 7 days beginning with the giving of notice, return the child to the Department, who shall receive the child from him.

(8) Where a notice under paragraph (7) is given, but —

- (a) before the notice was given an application for a Convention adoption order was made, and
- (b) the application has not been disposed of,

the prospective adopter is not required by virtue of the notice to return the child to the Department unless the High Court so orders.

(9) Paragraphs (7) and (8) do not affect the exercise by any public authority or other person of any power conferred by any enactment or the exercise of any power of arrest.

15. Breakdown of placement

(1) This regulation applies where, in the circumstances specified in regulation 13 —

- (a) the prospective adopter notifies the Department under regulation 14(6) that he does not wish to proceed with the adoption;
- (b) the prospective adopter is required by regulation 14(7) to return the child to the Department; or
- (c) an application for a Convention adoption order is refused, or a Convention adoption or a Convention adoption order is annulled pursuant to section 41(1) of the Act.

(2) Where the Department is satisfied that it would be in the child's best interests to be placed for adoption with another prospective adopter habitually resident in the Island it shall seek to identify a suitable adoptive parent for the child.

(3) Where the Department has identified another prospective adopter who is eligible to adopt and has been assessed in accordance with these Regulations and approved as suitable to be an adoptive parent in accordance with regulations 2 to 9, the Department shall inform the Central Authority of the country of origin with a view to agreement on the proposed placement with that Authority in accordance with Part 2.

(4) Where the Department is not satisfied it would be in the child's best interests to be placed for adoption with another prospective adopter in the Island, it shall either —

- (a) liaise with the Central Authority of the country of origin with a view to arranging for the return of the child to that country, or

- (b) liaise with that Authority and with one or more of the Central Authorities in the United Kingdom with a view to the placement of the child in the United Kingdom.

(5) Before coming to any decision under this regulation, the Department shall have regard to the wishes and feelings of the child, having regard to his age and understanding, and, where appropriate, obtain his consent in relation to measures to be taken under this regulation.

16. Convention adoptions subject to a probationary period

(1) This regulation applies where —

- (a) the child has been placed with the prospective adopters by the competent authority and a Convention adoption has been applied for by the prospective adopter in the country of origin, but the child's placement with the prospective adopter is subject to a probationary period before the Convention adoption is made; and
- (b) the prospective adopter returns to the Island with the child before that probationary period is completed and the Convention adoption is made in the country of origin.

(2) The Department shall, if requested by the competent authority of the State of origin, submit a report about the placement to that authority, prepared within such time-scale and containing such information as the competent authority may reasonably require.

17. Procedural requirements following Convention adoption order or Convention adoption

(1) Where a Convention adoption order is made by the High Court, the Chief Registrar shall send a copy of that order to the Department.

(2) On receipt of a copy order under paragraph (1), the Department shall —

- (a) issue a certificate in the form set out in Schedule 3 certifying that the adoption has been made in accordance with the Convention; and
- (b) send a copy of the certificate to —
 - (i) the Central Authority of the country of origin;
 - (ii) the adoptive parents; and
 - (iii) if the Department is not the accredited agency dealing with the case, that agency.

(2) Where the Department receives a certificate under Article 23 of the Convention in respect of a Convention adoption made in another Convention country, it shall send a copy of that certificate to —

- (a) the adoptive parents; and

- (b) if the Department is not the accredited agency dealing with the case, that agency.

18. Refusal of court to make Convention adoption order

Where an application for a Convention adoption order is refused by the High Court or is withdrawn, the prospective adopter shall return the child to the Department within the period determined by the Court for the purpose.

19. Annulment of Convention adoption order etc.

Where a Convention adoption order or a Convention adoption is annulled under section 41(1) of the Act the Chief Registrar shall send a copy of the order to —

- (a) the Department (which shall forward it to the Central Authority of the country of origin;
- (b) the adoptive parents; and
- (c) if the Department is not the accredited agency dealing with the case, that agency.

PART 3

PROCEDURE WHERE THE ISLAND IS THE COUNTRY OF ORIGIN

20. Duty of adoption agency — assessment of child

- (1) This regulation applies where the Department —
 - (a) has decided that adoption is in the best interests of the child;
 - (b) has considered the possibilities for placement of that child within the British Islands;
 - (c) considers that adoption by a person habitually resident in a Convention country outside the British Islands may be in the child's best interests;

and either —

- (i) the Department is satisfied that each parent or guardian of the child freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants), or
- (ii) there is in force in respect of the child an order under section 18 of the Adoption Act 1976 (an Act of Parliament)⁷, section 18 of the Adoption (Scotland) Act 1978 (an Act of Parliament)⁸ or

⁷ 1976 c.36

⁸ 1978 c.28

article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987⁹.

(2) Subject to paragraph (3), the Department shall refer the case of the child to its adoption panel together with —

- (a) such particulars of the parents or guardian and (having regard to his age and understanding) the child as are referred to in Parts I and III to V of the Schedule to the 1985 Regulations;
- (b) a written report by a registered medical practitioner on the child's health, dealing with the matters specified in Part II of that Schedule; and
- (c) a report by a social worker —
 - (i) as to why he considers that adoption by a person habitually resident in a Convention country outside the British Islands may be in the child's best interests, and
 - (ii) if appropriate, having regard to the child's age and understanding, on the child's views and wishes in relation to adoption.

(3) The Department may not refer the case of the child to the adoption panel under paragraph (2) unless more than 12 months has elapsed since the decision referred to in paragraph (1)(a).

(4) The adoption panel shall consider the case of the child and make a recommendation to the Department as to whether adoption by a person habitually resident in a Convention country outside the British Islands is in the child's best interests.

(5) In considering what recommendation to make, the panel shall —

- (a) have regard to the duties imposed on the Department by sections 12 and 13 of the Act (promotion of child's welfare, religious upbringing);
- (b) consider and take into account all the information and reports passed to it under paragraph (2);
- (c) request the Department to obtain any other relevant information which the panel considers necessary; and
- (d) obtain legal advice in relation to the case as may be necessary.

(6) The Department shall make a decision on the matter referred to the adoption panel only after taking into account the recommendation of the panel.

(7) No member of the adoption panel shall take part in any decision made by the Department under paragraph (5).

(8) The Department shall maintain a list of children in respect of whom it has taken a decision that adoption by a person habitually resident in a Convention country outside the British Islands is in the child's best interests; and where the Department —

⁹ SI 1987/2203

- (a) places such a child for adoption, or
- (b) determines that adoption by a person habitually resident in a Convention country outside the British Islands is no longer in the best interests of such a child,

it shall remove the details relating to that child from that list.

21. Action on receipt of Article 15 report from receiving country

- (1) This regulation applies where the Department —
 - (a) receives a report (an "Article 15 report") from the Central Authority of a Convention country outside the British Islands ("the receiving country") which —
 - (i) has been prepared for the purposes of Article 15 of the Convention, and
 - (ii) relates to a prospective adopter who is habitually resident in that country and wishes to adopt a child who is habitually resident in the Island; and
 - (b) is satisfied that the prospective adopter —
 - (i) meets the requirements as to age and marital status in sections 3 and 4 of the Act; and
 - (ii) is (or, in the case of a married couple, each of them is) habitually resident in a Convention country outside the British Islands on the date of application.

(2) The Department shall consult the list maintained under regulation 20(8) and consider the Article 15 report and, where it considers that it may be appropriate to place the child for adoption with the prospective adopter, shall refer the proposed placement for adoption to its adoption panel together with —

- (a) the Article 15 Report;
- (b) the documents referred to in regulation 20(2)(a), (b) and (c),
- (b) its observations on the proposed placement; and
- (c) any other relevant information about the child.

(3) The adoption panel shall consider the proposed placement referred to it under paragraph (2) and make a recommendation to the Department as to whether —

- (a) the prospective adopter is a suitable adoptive parent for the child, and
- (b) the proposed placement is in the best interests of the child.

(4) In considering what recommendation to make under paragraph (3), the adoption panel —

- (a) shall have regard to the child's upbringing and his ethnic, religious and cultural background;
- (b) shall have regard to the duties imposed upon it by sections 12 and 13 of the Act (duty to promote welfare of child and religious upbringing of adopted child);

- (c) shall have regard to the documents and the Article 15 Report referred to it under paragraph (2);
- (d) may request the Department to obtain any other relevant information which the panel considers necessary; and
- (e) may obtain legal advice as it considers necessary in relation to the case.

(5) The Department shall make a decision on the proposed placement only after taking into account the recommendation of the adoption panel.

(6) No member of the adoption panel shall take part in any decision made by the Department under paragraph (5).

22. Preparation of Article 16 information to Central Authority of receiving country

(1) Where the Department decides under regulation 21 that the proposed placement is in the best interests of the child and the adoption may proceed, it shall prepare a report for the purposes of Article 16 of the Convention which shall include

- (a) information about the child's identity, suitability for adoption, background, social environment, family history, medical history (including that of the child's family), and any special needs of the child;
- (b) the reasons for its decision.

(2) The Department shall send to the Central Authority of the receiving country —

- (a) the report referred to in paragraph (1);
- (b) evidence of the matter referred to in regulation 20(1)(i) or (ii), as the case may be;
- (c) written observations relating to the child's upbringing and ethnic, religious and cultural background; and
- (d) the report, if any, referred to in regulation 20(2)(c)(ii).

(3) The Department may notify the Central Authority that it is prepared to agree that the adoption may proceed provided that the Authority has confirmed that

- (a) the prospective adopter has agreed to adopt the child and has received such counselling as may be necessary;
- (b) the prospective adopter has confirmed that he will accompany the child to the receiving country;
- (c) it is content for the adoption to proceed; and
- (d) the child is or will be authorised to enter and reside permanently in the receiving country if a Convention adoption is made in that country or a Convention adoption order is made in the Island.

(4) The Department may not make an agreement under Article 17(c) of the Convention with the Central Authority of the receiving country unless —

- (a) an officer of the Department has met the prospective adopter,
- (b) the prospective adopter has visited the child, and
- (c) the prospective adopter is content for the adoption to proceed.

(5) The Department may not place a child for adoption with a prospective adopter who is habitually resident in a Convention country outside the British Islands unless the agreement under Article 17(c) of the Convention has been made.

(6) In paragraph (5) the reference to a prospective adopter means, in the case where the prospective adopters are a married couple, both of them.

23. Procedure following Convention adoption order etc.

(1) Where a Convention adoption order is made in the Island, the Chief Registrar shall send a copy of the order to the Department.

- (2) On receipt of an order under paragraph (1) the Department shall —
 - (a) issue a certificate in the form in Schedule 3 certifying that the Convention adoption order has been made in accordance with the Convention; and
 - (b) send a copy of the certificate to the Central Authority in the receiving country.

PART 4

MISCELLANEOUS

24. Modifications of the Act

In relation to adoptions under the Convention the provisions of the Act specified in column 1 of the following table shall have effect with the modifications specified in column 2 of the table —

<i>Provision</i>	<i>Modification</i>
Section 1	At the end insert — "(8) A Convention adoption order may not be made in relation to a person who has attained the age of 19 years."
Section 5	Substitute — "5. A Convention adoption order shall not be made unless an agreement under Article 17(c) of the Convention has been made in respect of the child."
Section 7	In subsection (1), for "not placed with the applicants by an adoption agency" substitute "entrusted to the applicants by the Central Authority of a country of origin outside the British Islands".

Section 17 For subsection (1) substitute —

"(1) Where an application for a Convention adoption order is pending the parent or guardian is not entitled to remove the child from the home of the application except with the leave of the Court."

Sections 20 Omit.
and 21

25. Modifications of 1985 Regulations

In relation to adoptions under the Convention the 1985 Regulations shall have effect with the omission of regulations 5 to 10.

26. Offences

Any person who without reasonable excuse contravenes or fails to comply with regulation 13(2) (or (8)(b) or 14(8)(b)) is guilty of an offence and liable on summary conviction to custody for a term not exceeding 3 months, or a fine not exceeding £5,000, or both.

27. Transitional provision

(1) These Regulations shall not apply in relation to the case of a prospective adopter who wishes to adopt a child from a Convention country outside the British Islands which has not, before the date specified in regulation 1(1), been referred by an approved adoption society to its adoption panel.

(2) No application may be made for a Convention adoption order under section 6 of the Act unless the arrangements for the adoption of the child have been made in accordance with these Regulations.

Regulation 4(5)(a).

SCHEDULE 1

OFFENCES

1. An offence under section 1 of the Sexual Offences Act 1992¹⁰ (rape).
2. An offence specified in Schedule 1 to the Children and Young Persons Act 2001 except —
 - (a) an offence under section 56 of the Petty Sessions and Summary Jurisdiction Act 1927¹¹ (common assault or battery);
 - (b) in a case where the offender was under 18 at the time the offence was committed, an offence contrary to section 60 of the Criminal Code 1892¹² (assault occasioning actual bodily harm); or
 - (c) in a case where the offender was under 20 at the time the offence was committed, an offence contrary to section 4(2) or 9(1) or (4) of the Sexual Offences Act 1992 (sexual intercourse with person between 13 and 16, buggery or gross indecency between men).
3. An offence under section 8 of the Sexual Offences Act 1992 (incitement to commit incest).
4. An offence under section 14 of the Sexual Offences Act 1992 (indecency with child).
5. An offence under Schedule 3 to the Criminal Justice Act 2001¹³ (indecent photographs of children).
6. An offence under section 178 of the Customs and Excise Management Act 1986¹⁴ in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (an Act of Parliament)¹⁵, as it has effect in the Island¹⁶, (prohibitions and restrictions relating to pornography) where the prohibited goods included indecent photographs of children under the age of 16.

¹⁰ 1992 c.6

¹¹ XII p.291

¹² IV p.160

¹³ 2001 c.4

¹⁴ 1986 c.34

¹⁵ 39 & 40 Vict. c.56

¹⁶ GC 38/79

Regulation 10(1)(a).

SCHEDULE 2

CERTIFICATE OF ELIGIBILITY AND APPROVAL

**Convention on Protection of Children and Co-operation in respect of Intercountry Adoption
(The Hague, 1993)**

To the Central Authority of *[country of origin]*

Re: *[name of applicant]*

In accordance with Article 5 of the Convention, I hereby certify on behalf of the Central Authority for the Isle of Man that *[name of applicant]* has been counselled, is eligible to adopt and has been assessed and approved as suitable to adopt a child from *[country of origin]* by the Department of Health and Social Security or an accredited body for the purpose of the Convention.

The attached report has been prepared in accordance with Article 15 of the Convention for presentation to the competent authority in *[country of origin]*.

This certificate of eligibility and approval and the report under Article 15 of the Convention are provided on the condition that a Convention adoption or Convention adoption order will not be made until the agreement under Article 17(c) of the Convention has been made.

I confirm on behalf of the Central Authority that if, following the agreement under Article 17(c) of the Convention,

the requirements specified in section 1(5A) of the British Nationality Act 1981 (an Act of Parliament) are met,

OR

entry clearance and leave to enter and remain, as may be necessary, are granted and not revoked or curtailed and a Convention adoption order or a Convention adoption is made,

the child will be authorised to enter and reside permanently in the Isle of Man.

Signed

On behalf of the Department of Health and Social Security
Central Authority for the Isle of Man

Date

Regulation 17(2)(a).

SCHEDULE 3

CERTIFICATE OF CONVENTION ADOPTION ORDER

**Convention on Protection of Children and Co-operation in respect of Inter-country Adoption
(The Hague, 1993)**

1. The Central Authority as the competent authority for the Isle of Man being the country in which the Convention adoption order was made hereby certifies, in accordance with Article 23(1) of the Convention, that the child:

(a) name: *[name on birth certificate]* [also known as] [now known as]

sex:

date and place of birth:

habitual residence at time of adoption:

country of origin:

(b) was adopted on *[date]* by an order made by the High Court of Justice of the Isle of Man

(c) by the following person[s]:

(i) surname and first names:

sex:

date and place of birth

habitual residence at
time of adoption:

(ii) surname and first names:

sex:

date and place of birth

habitual residence at
time of adoption:

2. The competent authority for the Isle of Man in pursuance of Article 23(1) of the Convention hereby certifies that the adoption was made in accordance with the Convention and that the agreements under Article 17(c) were given by

(a) name and address of Central
Authority of country of origin:

date of agreement:

(b) name and address of Central
Authority of receiving country:

date of agreement:

Signed

On behalf of the Department of Health and Social Security
Central Authority for the Isle of Man

Date

MADE 19th March 2003



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations supplement the provisions of the Adoption Act 1984 relating to Convention adoptions under the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption (1993, Cm 2691). Part 1 (reg.1) is introductory. Part 2 (regs.2 to 19) lays down the procedure to be followed where a child from another Convention country is to be adopted in the Isle of Man, and Part 3 (regs. 20 to 23) that where a child in the Isle of Man is to be adopted in another Convention country. Part 4 modifies the 1984 Act and the Adoption Societies Regulations 1985 in relation to Convention adoptions (regs.24 & 25), and makes non-compliance with certain obligations imposed on prospective adopters an offence (reg.26).