

CONSOLIDATION OF ADOPTION ACT

S.N.W.T. 1998,c.9

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S.Nu. 2009,c.7,s.1

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the Revised Statutes of the Northwest Territories, 1988.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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ADOPTION ACT**INTERPRETATION**

Definitions

1. (1) In this Act,

"adopted person" means a person adopted under this Act; (*adopté*)

"adoption", when used in reference to an adoption under this Act, means a step-parent adoption, a private adoption or a departmental adoption; (*adoption*)

"Adoption Register" means the Adoption Register referred to in paragraph 50(1)(a); (*registre des adoptions*)

"Adoption Registry" means the Adoption Registry established under subsection 50(1); (*bureau d'enregistrement des adoptions*)

"Adoption Worker" means an Adoption Worker appointed under subsection 70(1); (*préposé à l'adoption*)

"child" means a person who has not attained the age of majority; (*enfant*)

"Clerk" means the Clerk of the Nunavut Court of Justice appointed under the *Judicature Act*; (*greffier*)

"court" means the Nunavut Court of Justice; (*tribunal*)

"departmental adoption" means an adoption under this Act of a child who has been placed in the permanent custody of the Director of Child and Family Services under the *Child and Family Services Act*; (*adoption administrative*)

"Director" means the Director of Adoptions appointed under subsection 69(1); (*directeur*)

"Director of Child and Family Services" means the Director of Child and Family Services appointed under the *Child and Family Services Act*; (*directeur des services à l'enfance et à la famille*)

"family union report" means a report prepared in accordance with subsection 8(1) or 19(1) after the placement of a child for adoption; (*rapport sur l'union familiale*)

"parent", when used in reference to a child, means, subject to subsections (2) and (3), each of

- (a) the child's mother,
- (b) the person who is presumed to be the child's father, and

- (c) a person who has lawful custody of the child, other than the Director of Child and Family Services; (*père ou mère* or *parents*)

"personal history" means the information collected by an Adoption Worker respecting a person who is or who must be named in the Adoption Register; (*antécédents*)

"petition" means a petition to adopt a child under this Act; (*requête d'adoption*)

"petitioner" means a person who petitions to adopt a child under this Act; (*requérant*)

"pre-placement report" means

- (a) a report prepared in accordance with subsections 6(5), 7(3) or 15(2), by an Adoption Worker or a person authorized by the Director to do so, or
- (b) a report referred to in subsection 43(2) or subsection 44(2) that is prepared by an agency, organization or person in another jurisdiction; (*rapport préalable au placement*)

"private adoption" means an adoption under this Act where a parent places his or her child for adoption, but does not include a step-parent adoption; (*adoption privée*)

"Registrar" means the Registrar of the Adoption Registry appointed under subsection 51(1); (*registraire*)

"Registrar General" means the Registrar General of Vital Statistics appointed under the *Vital Statistics Act*; (*registraire général*)

"registry information" means information that is deposited with the Adoption Registry; (*renseignements déposés*)

"relative" means, in respect of a child,

- (a) the child's grandparent, uncle, aunt, brother or sister, whether by blood or through adoption, or
- (b) the spouse of a person referred to in paragraph (a); (*personne apparentée*)

"spouse" has the meaning assigned to it by section 1 of the *Family Law Act*; (*conjoint*)

"step-parent adoption" means an adoption under this Act by one spouse where the child is the child of the other spouse. (*adoption par le conjoint*)

Parent: references not including person with custody of child

(2) A reference to a parent in the following provisions shall be construed as not including a person who has lawful custody of a child:

- (a) the definitions "private adoption" and "spouse" in subsection (1);
- (b) section 4;

- (c) sections 10 to 13;
- (d) subsection 18(5);
- (e) paragraph 37(1)(a) and subsection 37(2).

Parent: references to ordinary meaning

(3) A reference to a parent in the following expressions shall be construed as a reference to the ordinary meaning of that term:

- (a) "a positive relationship with a parent";
- (b) "the rights and responsibilities of a parent";
- (c) "the rights of a parent";
- (d) "the responsibilities of a parent".

S.Nu. 2009,c.7,s.1(2); S.Nu. 2011,c.25,s.1.

Purposes of Act

2. The purposes of this Act are

- (a) as a paramount objective, to promote the best interests of a child being adopted; and
- (b) to provide a means for establishing the legal status of a child within a family.

Best interests of the child

3. Where there is a reference in this Act to the best interests of a child, all relevant factors must be taken into consideration in determining the best interests of a child including the following factors, with a recognition that differing cultural values and practices must be respected in making that determination:

- (a) the child's physical, mental and emotional needs, and the appropriate care or treatment to meet those needs;
- (b) the importance for the child's development of a positive relationship with a parent and a secure place as a member of a family;
- (c) the child's cultural, linguistic and spiritual or religious ties or upbringing and the importance of a family environment that will respect the child's cultural and linguistic heritage and traditions and religious or spiritual background;
- (d) the child's views and preferences, if they can be reasonably ascertained;
- (e) the parent's views and preferences;
- (f) the family or extended family relationship between the child and each person seeking to adopt or receive the placement of the child.

PART I

ADOPTION PROCEEDINGS

Pre-birth Information

Pre-birth information

4. On the request of a parent who is expecting a child, the Director, an Adoption Worker or a person designated by the Director shall provide the parent with information prepared by the Director on the services available to the parent and to the child if the child remains with the parent or is adopted under this Act.

Who May Adopt

Who may petition to adopt

5. (1) Subject to subsection (2), the following persons may petition to adopt a child under this Act:

- (a) an unmarried person who has attained the age of majority and is not the spouse of a person who is married;
- (b) spouses jointly, where at least one of them has attained the age of majority and neither of them is married to another person;
- (c) a spouse, where the child is the child of his or her spouse and neither spouse is married to another person.

Residency

(2) Each person who petitions to adopt a child under this Act must be ordinarily resident in Nunavut. S.Nu. 2009,c.7,s.1(3).

Private and Step-parent Adoptions

Private Placement of a Child in Nunavut

Prohibition on placement without approval or notice

6. (1) No person shall receive a child for the purpose of a private adoption unless the person is entitled to petition to adopt a child under this Act and

- (a) the person has obtained the Director's written approval of the proposed placement under section 7; or
- (b) where the person is a relative of the child,
 - (i) the person has given written notice of the proposed placement to the Director or an Adoption Worker in accordance with this section and the regulations, and
 - (ii) the parent who wishes to place the child has received a copy of the pre-placement report prepared under this section.

Offence and punishment

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000, to imprisonment for a term not exceeding one year or to both.

Notice of proposed placement with relative

(3) The notice of a proposed placement required by subparagraph (1)(b)(i) must be given no later than 45 days before the date on which the proposed placement is to occur, unless the Director agrees otherwise, and must be accompanied by the prescribed fee, if any, for the preparation of a pre-placement report.

Notice to be given to Adoption Worker

(4) The Director shall give any notice of a proposed placement received by the Director to an Adoption Worker.

Pre-placement report

(5) On receiving a notice of a proposed placement, an Adoption Worker shall, without delay, and within 45 days after the notice of the proposed placement was given or such shorter period of time as the Director may have agreed to,

- (a) prepare a pre-placement report, or arrange for a person authorized by the Director to prepare a pre-placement report, in accordance with the guidelines of the Director; and
- (b) provide the pre-placement report and the notice of the proposed placement to the Director.

Views of child

(6) Subsections 7(4) and (5) apply to the preparation of a pre-placement report under paragraph (5)(a).

Provision of pre-placement report to parent

(7) On receiving the pre-placement report and notice of the proposed placement from the Adoption Worker, the Director shall, without delay,

- (a) provide a copy of the pre-placement report to
 - (i) the Director of Child and Family Services,
 - (ii) the parent who wishes to place the child, and
 - (iii) the relative or relatives of the child who gave notice of the proposed placement; and
 - (b) advise the relative or relatives referred to in subparagraph (a)(iii) that a copy of the pre-placement report will also be provided to the parent who wishes to place the child and to the Director of Child and Family Services and that the proposed placement must not be made until the parent has received the pre-placement report.
- S.Nu. 2009,c.7,s.1(3).

Application for Director's approval

7. (1) A person who wishes to obtain the Director's written approval of the proposed placement of a child with that person must make an application, in accordance with this Act and the regulations, and submit the application together with the prescribed fee, if any, to

- (a) the Director, who shall refer the application to an Adoption Worker; or
- (b) an Adoption Worker.

Time for submission

(2) The application and prescribed fee, if any, must be submitted no later than 45 days before the date on which the proposed placement is to occur, unless the Director agrees otherwise.

Pre-placement report

(3) On the referral or receipt of an application submitted in accordance with this section, an Adoption Worker shall, without delay,

- (a) review the application and prepare a pre-placement report, or arrange for a person authorized by the Director to prepare a pre-placement report, in accordance with the guidelines of the Director; and
- (b) provide the application and the pre-placement report to the Director for review.

Views of child who has attained age of 12 years

(4) Where a child who is to be placed has attained the age of 12 years, an Adoption Worker or an authorized person referred to in paragraph (3)(a) shall, when preparing the pre-placement report,

- (a) interview the child in order to ascertain the child's views on the proposed placement and adoption; and
- (b) include those views, if any, in the pre-placement report.

Views of child who is less than age of 12 years

(5) Where the child to be placed is less than the age of 12 years, if it is reasonable to do so, an Adoption Worker or an authorized person referred to in paragraph (3)(a) shall, when preparing the pre-placement report,

- (a) interview the child in order to ascertain the child's capacity to understand and appreciate the nature and effect of the proposed placement and adoption and the child's views and preferences, if they can be reasonably ascertained; and
- (b) include those views and preferences, if any, in the pre-placement report.

Time for decisions of Director

(6) On receiving the application and pre-placement report from the Adoption Worker, the Director shall, without delay, review those documents, conduct any

consultation required by subsection (7) and make a decision on the proposed placement within either 45 days after the submission of the application in accordance with this section or such shorter period of time as the Director may have agreed to.

Consultation in respect of aboriginal child

(7) Subject to subsection (8), where the Director has reason to believe that the child who is to be placed is or will be an aboriginal child, the Director shall, before making a decision in respect of the proposed placement, consult with the aboriginal organization that would be the applicable aboriginal organization for the child in the circumstances described in section 25 of the *Child and Family Services Act*.

Consent required

(8) The Director shall not consult in accordance with subsection (7) without the consent of

- (a) the child, where the child has attained the age of 12 years; and
- (b) the parent of the child.

Approval

(9) On reviewing the application and pre-placement report and completing any consultation required by subsection (7), the Director shall approve the proposed placement and shall, without delay, issue a written approval to the applicant or, in the case of a joint application, to each applicant, where the Director considers that

- (a) the applicant or each joint applicant, as the case may be, is suitable to be an adoptive parent; and
- (b) the proposed placement is in the best interests of the child.

Refusal to approve

(10) Where, on reviewing the application and pre-placement report and completing any consultation required by subsection (7), the Director considers that

- (a) the applicant or one or both joint applicants, as the case may be, is not suitable to be an adoptive parent, or
- (b) the proposed placement is not in the best interests of the child,

the Director shall refuse to approve the proposed placement and shall, without delay, give written notice of and written reasons for the refusal to the applicant or joint applicants, as the case may be, and to the person who wishes to place the child.

Review

(11) Where a proposed placement is not approved by the Director, the applicant or joint applicants, as the case may be, may, within 30 days after receiving notice of that fact under subsection (10), apply to the Minister, in accordance with the regulations, for a review of the decision of the Director.

Designation of persons to review decision

(12) On receiving an application for a review made under subsection (11), the Minister shall, without delay, designate a person or persons who do not work in the

department of the Government of Nunavut that administers this Act to review the decision of the Director.

Conduct of review

(13) The designated person or persons shall, within 30 days after the day the Minister received the application for review, conduct the review in accordance with the procedure set out in the regulations and make any inquiries that the designated person or persons consider necessary.

Decision of designated persons

- (14) At the conclusion of the review, the designated person or persons shall
- (a) affirm the decision of the Director; or
 - (b) issue a written approval of the proposed placement to the applicant or applicants, where the designated person or persons find the applicant or each applicant, in the case of a joint application, to be suitable to be an adoptive parent and the proposed placement to be in the best interests of the child.

Notice of decision

(15) The designated person or persons shall, without delay, give written notice of the decision under subsection (14).

Decision final

(16) The decision of the designated person or persons under subsection (14) is final and written approval issued under that subsection shall be deemed to be, for the purposes of paragraph 6(1)(a), a written approval of the Director. S.Nu. 2009,c.7,s.1(3).

Family Union Report

Family union report

8. (1) After a petition in respect of a private or step-parent adoption has been filed, an Adoption Worker shall, on the request of the petitioner and on the payment of the prescribed fee, if any,

- (a) prepare a family union report, or arrange for a person authorized by the Director to prepare a family union report, in accordance with the guidelines of the Director; and
- (b) provide the family union report to the Director for review.

Affidavit of Director

- (2) On reviewing a family union report, the Director shall
- (a) prepare an affidavit setting out the Director's views on the adoption and recommendation with respect to the adoption; and
 - (b) provide the petitioner with the affidavit and a copy of the family union report.

Rights and Responsibilities on Private Placement

Rights and responsibilities of petitioner on placement

9. (1) Where a child is placed, for the purpose of a private adoption, with a petitioner or a person who intends to petition, the petitioner or person who intends to petition has the rights and responsibilities of a parent in respect of the person of the child from the time of placement until

- (a) the court orders otherwise; or
- (b) an adoption order is made.

Limitations on rights

(2) For the purposes of subsection (1), the rights of a parent in respect of the person of the child means those rights in relation only to the following:

- (a) consent for medical care or treatment for the child other than elective surgery;
- (b) the child's education;
- (c) the child's social and recreational activities.

Consent of Parent

Consent of parent to adoption

10. (1) In the case of a private or step-parent adoption, no adoption order shall be made without the consent of the parent of the child to be adopted, except as provided in section 13.

Parent under age of majority

(2) A parent who has not attained the age of majority may consent to the adoption of his or her child.

Time for parent's consent

(3) A parent may not consent to the adoption of his or her child until the expiration of 10 days after the birth of the child.

Consultation before consent

11. In the case of a private adoption, before a parent consents to the adoption of his or her child, the Director or an Adoption Worker shall, if requested by the parent,

- (a) provide information prepared by the Director to the parent on the services available to the parent and to the child if the child remains with the parent or is adopted under this Act;

- (b) explain the effect of an adoption, and when a consent may be given or revoked; and
- (c) advise the parent to obtain independent legal advice before giving his or her consent.

Revocation of consent by parent

12. (1) Before the earlier of the making of the adoption order and the expiration of 30 days after the day on which his or her consent was given, a parent may revoke his or her consent by providing

- (a) the revocation to the Director with the name and address of the person with whom the parent placed his or her child; or
- (b) a copy of the revocation to the person with whom the parent placed his or her child, in which case the parent shall, without delay, notify the Director of having revoked his or her consent and send the revocation to the Director.

Assistance of Adoption Worker

(2) On the request of a parent, an Adoption Worker shall assist the parent in preparing a revocation under subsection (1) and in providing the revocation to the Director.

Notification by the Director

(3) In the case of a private adoption, where the Director receives a revocation under paragraph (1)(a) from a parent of the child to be adopted, the Director shall, without delay, give notice in writing of the revocation to

- (a) the person with whom the child has been placed;
- (b) the other parent of the child, where the name and address of that parent are known to the Director; and
- (c) the Director of Child and Family Services.

Return of child to parent

(4) In the case of a private adoption where a parent revokes his or her consent in accordance with subsection (1) and section 26, the child shall remain with the person with whom the child has been placed by a parent unless the court, on an application by a parent, the Director of Child and Family Services or the person with whom the child has been placed by a parent, orders otherwise.

When consent irrevocable

(5) Where a parent does not revoke his or her consent in accordance with subsection (1) and section 26, the consent becomes irrevocable on the earlier of the making of the adoption order and the expiration of 30 days after the day on which it is given.

Dispensing with consent of parent

13. (1) Where the consent of a parent is not produced at the hearing of a petition or where a parent has revoked his or her consent, the court may order notice of the petition to be served on the parent and the court may dispense with the consent of the parent in the following circumstances where the court considers that it is in the best interests of the child to do so:

- (a) the parent has, with the knowledge that he or she is the parent of the child, demonstrated an intent to forego the rights and responsibilities of a parent in respect of the person of the child;
- (b) the parent fails to appear at the time and place stated in the notice;
- (c) the parent appears and objects to giving consent on grounds that the court considers insufficient;
- (d) the court, for reasons that appear to be sufficient to the court, considers it necessary or desirable to dispense with the consent of the parent.

Intent to forego parental rights and responsibilities

(2) For the purposes of paragraph (1)(a), a parent shall be presumed to have demonstrated the intent to forego the rights and responsibilities of a parent in respect of the person of the child where the parent

- (a) in the case of a newborn, has failed to communicate with or visit the child's mother during the six month period before the birth of the child; or
- (b) has failed to communicate with or visit the child or the person with whom the child has been living during the six month period before a petition is issued.

Departmental Adoptions

Notice of Application for Permanent Custody

Notice of application for permanent custody order

14. (1) The Director of Child and Family Services shall notify the Director of Adoptions in writing of any application, under Part II of the *Child and Family Services Act*, for an order that a child be placed in the permanent custody of the Director of Child and Family Services.

Direction to Adoption Worker

(2) On receiving notice of an application for an order referred to in subsection (1), the Director shall advise an Adoption Worker of the application and direct the Adoption Worker to perform the duties set out in sections 56 and 57.

Application for Departmental Adoption

Application for departmental adoption

15. (1) A person referred to in section 5 who wishes to adopt a child through a departmental adoption must make an application in accordance with this Act and the regulations and submit the application, together with the prescribed fee, if any, to

- (a) the Director, who shall refer the application to an Adoption Worker; or
- (b) an Adoption Worker.

Review and pre-placement report

(2) An Adoption Worker shall

- (a) review the application and prepare a pre-placement report, or arrange for a person authorized by the Director to prepare a pre-placement report, in accordance with the guidelines of the Director; and
- (b) submit the application and pre-placement report to the Director.

Suitability of applicant

16. (1) Where, on reviewing an application and pre-placement report, the Director considers that the applicant or, in the case of a joint application, each joint applicant, is suitable to be an adoptive parent, the Director shall approve the applicant.

Unsuitability of applicant

(2) Where, on reviewing an application and pre-placement report, the Director considers that the applicant or, in the case of a joint application, one or both joint applicants, is not suitable to be an adoptive parent, the Director shall, without delay, notify the applicant in writing that the applicant has not been approved and provide written reasons for not approving the applicant.

Review

(3) An applicant who has not been approved by the Director may, within 30 days after receiving the notice under subsection (2), apply to the Minister, in accordance with the regulations, for a review of the decision of the Director.

Designation of persons to review decision

(4) On receiving an application for a review made under subsection (3), the Minister shall, without delay, designate a person or persons who do not work in the department of the Government of Nunavut that administers this Act to review the decision of the Director.

Conduct of review

(5) The designated person or persons shall, within 30 days after the day the Minister received the application for review, conduct the review in accordance with the procedure set out in the regulations and make any inquiries that the designated person or persons consider necessary.

Decision of designated persons

- (6) At the conclusion of the review, the designated person or persons shall
- (a) affirm the decision of the Director; or
 - (b) approve the applicant, where the designated person or persons find the applicant or each applicant, in the case of a joint application, to be suitable to be an adoptive parent.

Notice of decision

(7) The designated person or persons shall, without delay, give written notice of the decision under subsection (6).

Decision final

(8) The decision of the designated person or persons under subsection (6) is final. S.Nu. 2009,c.7,s.1(3).

Subsidized departmental adoptions

17. (1) The Director may, in accordance with the regulations, arrange for the provision of financial assistance or other assistance authorized by the regulations to an applicant where the Director is satisfied that

- (a) it is desirable that the child be adopted by the applicant;
- (b) the adoption would place an undue burden on the financial resources of the applicant; and
- (c) the applicant would be unable to adopt the child without the assistance.

Time of decision

(2) The decision to provide assistance must be made before an adoption order is made.

Provision of assistance

(3) The assistance may be provided before and after the adoption order is made.

Review of assistance by Director

(4) The Director may review, vary or terminate the assistance in accordance with the regulations.

Review of Director's decision

(5) Where the Director decides to vary or terminate the assistance provided under this section, the applicant or adoptive parent of the child may apply to the Minister, in accordance with and within the time period set out in the regulations, to review the decision of the Director.

Decision of Minister

(6) The Minister shall conduct a review in accordance with procedures set out in the regulations and may make any inquiries that the Minister considers necessary, and may affirm, set aside or vary the decision of the Director, and the decision of the Minister is final.

Placement of Child

List of approved applicants

18. (1) The Director shall maintain a list of applicants approved under subsections 16(1) and (6) for a departmental adoption.

Placement for departmental adoption

(2) The Director shall place a child, in accordance with the regulations, with an applicant on the list of approved applicants and when placing a child the Director shall put the best interests of the child above all other considerations.

Views of child who has attained age of 12 years

(3) The Director shall not, under this section, place a child who has attained the age of 12 years unless

- (a) an Adoption Worker has
 - (i) interviewed the child to ascertain the child's views and preferences on any proposed placement and adoption, and
 - (ii) advised the Director of the child's views and preferences, if any; and
- (b) the Director has reviewed and considered the child's views and preferences.

Child who has not attained age of 12 years

(4) The Director shall not, under this section, place a child who is less than the age 12 years unless, where it is reasonable to do so,

- (a) an Adoption Worker has
 - (i) interviewed the child to ascertain the child's capacity to understand and appreciate the nature and effect of any proposed placement and adoption and the child's views and preferences, if they can be reasonably ascertained, and
 - (ii) advised the Director as to the child's capacity and the child's views and preferences, if any; and
- (b) the Director has reviewed and considered those matters.

Parent's preference

(5) Where a parent requests that his or her child be placed with a particular person, the Director shall advise that person that he or she must make an application under subsection 15(1) if he or she wishes to apply to adopt the child, and if that person is approved under subsection 16(1) by the Director or under subsection 16(6) by the person or persons designated by the Minister, the Director shall consider the application of that person when placing the child.

Consultation with applicable aboriginal organization

(6) Subject to subsection (7), where the Director has reason to believe that a child may be an aboriginal child, the Director shall, before placing the child with an approved applicant, consult with the aboriginal organization that would be the applicable aboriginal organization for the child in the circumstances described in section 25 of the *Child and Family Services Act*.

Consent required before consultation

(7) The Director shall not consult in accordance with subsection (6) without the consent of

- (a) the child, where the child has attained the age of 12 years; and
- (b) the parent of the child.

Family Union Report

Family union report

19. (1) After a petition in respect to a departmental adoption has been filed, an Adoption Worker shall, on the request of the petitioner and on the payment of the prescribed fee, if any,

- (a) prepare a family union report, or arrange for a person authorized by the Director to prepare a family union report, in accordance with the guidelines of the Director; and
- (b) provide the family union report to the Director for review.

Affidavit of Director

(2) On reviewing a family union report, the Director shall

- (a) prepare an affidavit setting out the Director's views on the adoption and recommendation with respect to the adoption; and
- (b) provide the petitioner with the affidavit and a copy of the family union report.

Rights and Responsibilities on Placement

Rights and responsibilities of applicant

20. (1) Where a child is placed with an applicant, the applicant has the rights and responsibilities of a parent in respect of the person of the child from the time of placement until

- (a) the court orders otherwise;

- (b) the return of the child after the Director of Child and Family Services revokes his or her consent to the adoption; or
- (c) an adoption order is made.

Limitations on rights

(2) For the purposes of subsection (1), the rights of a parent in respect of the person of the child means those rights in relation only to the following:

- (a) consent for medical care or treatment for the child other than elective surgery;
- (b) the child's education;
- (c) the child's social and recreational activities.

Consent of Director of Child and Family Services

Consent for departmental adoption

21. In the case of a departmental adoption, no adoption order shall be made without the consent of the Director of Child and Family Services.

Revocation of consent of Director

22. (1) The Director of Child and Family Services may revoke his or her consent at any time before the adoption order is made and shall, without delay, provide the revocation to the person with whom the Director placed the child.

Reasons

(2) The Director of Child and Family Services must, in a revocation, set out the reasons for revoking his or her consent.

Return of child to Director

(3) The person with whom the child has been placed shall, within 20 days after receiving the revocation of the Director, return the child to the Director.

Application to vary time for return

(4) On application to the court by the Director or by the person with whom the child has been placed by the Director, the court may reduce or increase the 20 day period referred to in subsection (3) where the court considers that it is in the best interests of the child to do so.

General Provisions

Consent of Child

Consent of child

23. (1) Except as provided in section 25, no adoption order in respect of a child who has attained the age of 12 years shall be made without the consent of the child.

Consultation before consent

(2) Before a child consents to an adoption, the Director or an Adoption Worker shall explain to the child

- (a) the effect of an adoption, and when a consent may be given or revoked; and
- (b) how the child may obtain legal advice and, if requested by the child, shall assist the child in finding counsel to provide legal advice to the child.

Revocation of consent

24. (1) A child may revoke his or her consent at any time before an adoption order is made and shall, without delay, provide the revocation to

- (a) the Director; or
- (b) the person with whom he or she has been placed for adoption, in which case that person shall, without delay, notify the Director of having received the revocation and send the revocation to the Director.

Assistance of Adoption Worker

(2) On the request of a child, an Adoption Worker shall assist the child in preparing a revocation under subsection (1) and in providing the revocation to the Director.

Notice to Director of Child and Family Services

(3) The Director shall provide a copy of a revocation received under this section to the Director of Child and Family Services.

Interview by court where no consent

25. (1) Where a child has not given the consent referred to in subsection 23(1) or has revoked that consent, the court may interview the child before or during the hearing of the petition to determine the reasons why that consent was not given or was revoked, as the case may be, and the interview shall be recorded.

Dispensing with consent of child

(2) The consent of a child referred to in subsection 23(1) is not required where at the hearing of the petition, the court considers that it is in the best interests of the child to dispense with the consent of the child.

Consent and Revocations of Consent

Form of consent or revocation

26. (1) A consent and a revocation of a consent made under this Act must be

- (a) in writing and in a form that complies with the regulations; and
- (b) accompanied by an affidavit of execution.

Consent or revocation from outside Nunavut

(2) A consent or a revocation of a consent of a person residing outside Nunavut to the adoption of a child from outside Nunavut is a valid consent or revocation in Nunavut if the consent or revocation complies with the laws of the jurisdiction in which the person resides when the consent was given or the revocation was made, and is admissible in evidence as if it were a consent or revocation given or made under this Act.

Affidavit of execution

(3) Notwithstanding paragraph (1)(b), an affidavit of execution is not required for a consent or a revocation of a consent referred to in subsection (2) if it is not required by the law of the jurisdiction referred to in subsection (2). S.Nu. 2009,c.7,s.1(3).

Petition

Petition

27. (1) An application for an adoption order shall be made by petition to the court.

Affidavit in support of petition

- (2) Before a petition is heard, the following must be filed in support of it:
- (a) a copy of the family union report;
 - (b) an affidavit of the Director referred to in paragraph 8(2)(a) or 19(2)(a) or subsection 33(1).

Other affidavits and material in support of petition

(3) The petition must, in respect of the suitability of the petitioner to be an adoptive parent or, in the case of a joint petition, of each joint petitioner to be an adoptive parent, be further supported by affidavits of persons who are acceptable to the Director and by any other material that the Director may require.

Existing agreements or arrangements

(4) Where an agreement or arrangement exists by which consideration is passing to or from a petitioner in respect of the adoption of a child, the petitioner shall disclose the terms of the agreement or arrangement in the petition, and any document relating to the agreement or arrangement must be made an exhibit to the petition.

Legal and medical services

(5) An agreement or arrangement referred to in subsection (4) does not include one for

- (a) the payment of fees payable or costs, charges and expenses incurred in respect of services under this Act or the regulations;
- (b) the payment to a lawyer of proper fees, expenses and disbursements in respect of legal services provided in respect of the adoption of a child; or

- (c) the payment to a medical practitioner or nurse of proper fees and expenses in respect of a medical examination conducted and report of the medical examination prepared in respect of the adoption of a child.

Filing petition

(6) A petition and the material to be used in connection with the petition must be filed in the office of the Clerk. S.Nu. 2009,c.7,s.1(3).

Petition to adopt adult

28. (1) A person referred to in section 5 may, in accordance with this Act, petition to adopt a person who has attained the age of majority.

Application of Act to adoption of adult

(2) The provisions of this Act respecting the adoption of a child apply, with such modifications as the circumstances require, to the adoption of a person who has attained the age of majority.

Consent

(3) Notwithstanding any other provision of this Act, the only consent required for an adoption referred to in this section is the consent of the person being adopted.

Family union report, affidavit of Director

(4) Notwithstanding subsection 27(2), unless the court orders otherwise, the family union report and affidavit of the Director referred to in sections 8 and 27(2) need not be prepared for an adoption referred to in this section.

Other affidavits and material in support of petition

(5) Notwithstanding subsection 27(3), the petition must, in respect of the suitability of the petitioner to be an adoptive parent or, in the case of a joint petition, of each joint petitioner to be an adoptive parent, be further supported by affidavits of persons who are acceptable to the court and by any other material that the court may require.

Time for presenting petition

29. Within one year after the placement of a child with a person referred to in section 5, or any further time that the court may allow, the person shall, unless the child to be adopted is no longer in the care of the person, make and present a petition to the court.

Treating petition as custody or guardianship application

30. Where the court is satisfied that a petition could more appropriately be dealt with by granting an order for custody or guardianship under the *Children's Law Act*, whether jointly with another person or otherwise, the court may treat the petition as an application for custody or guardianship.

Adoption Order

Waiver of provisions of this Act

31. Where, on hearing a petition, the court considers that it is in the best interests of the child who is the subject of the petition not to require compliance with a provision of this Act that is otherwise required before an adoption order may be made, other than the requirement for a family union report, the court may waive the provision and make an adoption order.

Conditions for making private and step-parent adoption order

32. In the case of a private or step-parent adoption, the court shall not make an adoption order unless the court is satisfied that

- (a) the child has lived with the petitioner for at least six months and during that period the conduct of the petitioner and the conditions under which the child has lived justify making the adoption order; or
- (b) the petitioner or, in the case of a joint petition, each joint petitioner, is a person who is suitable to be an adoptive parent and, the court considers that it is in the best interests of the child, or for other good and sufficient reason, that the six-month period of living with the petitioner or any portion of that period be dispensed with.

Conditions for making departmental adoption order

33. (1) In the case of a departmental adoption, the court shall not make an adoption order unless the Director certifies, by affidavit, that the petitioner or, in the case of a joint petition, each joint petitioner, is, in the opinion of the Director, a person who is suitable to be an adoptive parent and, subject to subsection (2), that

- (a) the child has been in the care of the petitioner for at least six months; or
- (b) the child has not been in the care of the petitioner for six months but the Director recommends that the requirement for a six-month period of care be dispensed with on the grounds that a period of care has been partially completed and the petitioner has decided to live outside Nunavut.

Exception

(2) Where a petitioner is not a petitioner described in paragraph (1)(a) or (b), the court may, where the court considers that there are proper or sufficient reasons for so doing, make an adoption order notwithstanding the absence of an affidavit complying with paragraph (1)(a) or (b). S.Nu. 2009,c.7,s.1(3).

Adoption order

34. (1) The court may, on hearing a petition, make an adoption order where the court is satisfied that

- (a) the petitioner is capable and willing to assume the responsibilities of a parent toward the child;
- (b) the petitioner has demonstrated an understanding and appreciation of the issues related to adoption for the child and for the petitioner as an adoptive parent of that child;
- (c) the adoption is in the best interests of the child; and
- (d) the requirements of this Act have been complied with, except where dispensed with or waived by the court under this Act.

Child's capacity and views

(2) An adoption order in respect of a child who is less than 12 years of age shall not be made unless, where it is reasonable to do so, the court has inquired into and considered

- (a) the child's capacity to understand and appreciate the nature of the proceedings and the effect of an adoption; and
- (b) the child's views and preferences, if they can be reasonably ascertained.

Adoption order of adult

(3) An adoption order in respect of a person who has attained the age of majority shall not be made unless the court is satisfied that

- (a) the petitioner has supported and treated as his or her own son or daughter the person who is to be adopted from the time the person began to live with the petitioner until the person attained the age of majority;
- (b) the petitioner is capable and willing to assume the responsibilities of a parent toward the person who is to be adopted;
- (c) the adoption is in the best interests of the person who is to be adopted;
- (d) it is not contrary to the public interest to issue an order of adoption; and
- (e) the requirements of this Act have been complied with, except where dispensed with or waived by the court under this Act.

Form of adoption order

(4) An adoption order must

- (a) be in a form that complies with the regulations;
- (b) not show the surname of the child before the adoption; and
- (c) identify the child by reference to his or her given names before the adoption and the number given to the registration of his or her birth before the adoption.

Name of adopted child

35. (1) Where an adoption order is made, the given name and surname of the adopted child shall be the given name and surname provided in the petition.

Naming adoptive parents

(2) Where the petitioner is a surviving spouse and before the death of the spouse of the petitioner, the child being adopted was in the care of the petitioner and the deceased spouse, the court may, on the request of the petitioner, name both the petitioner and the deceased spouse as the adoptive parents of the child in the adoption order.

Order for Access After Adoption

Private and step-parent adoption

36. (1) In the case of a private adoption or a step-parent adoption, where the court considers that it is in the best interests of the child to do so, the court may, at the time of making the adoption order, make a further order granting a person who is a parent of the child before the adoption order is made access to the child after the adoption order is made on the terms and conditions that the court considers appropriate.

Departmental adoption

(2) In the case of a departmental adoption, where a provision granting access to the child was made in the order placing the child in the permanent custody of the Director of Child and Family Services, the court shall review the provision and where the court considers that it is in the best interests of the child to do so, the court may, at the time of making the adoption order, make a further order granting any or all persons who were granted access to the child under the order placing the child in the permanent custody of the Director of Child and Family Services access to the child after the adoption order is made on the terms and conditions that the court considers appropriate.

Death of parents

(3) In the case of an adoption due to the death of a child's parents, the court may, at the time of making the adoption order, make a further order granting those persons who are members of the child's family and extended family, or any of them, before the adoption order is made access to the child after the adoption order is made on the terms and conditions that the court considers appropriate.

Effect of Adoption

Status of adopted child and parents

37. (1) For all purposes, as of the date of the making of an adoption order,

- (a) the adopted child becomes the child of the adoptive parent and the adoptive parent becomes the parent of the adopted child as if he or she were the natural parent; and
- (b) the adopted child ceases to be the child of the person who was his or her parent before the adoption order was made and that person ceases to be the parent of the adopted child.

Exception — step-parent adoption

(2) Paragraph (1)(b) does not apply to the person who was both a parent of the adopted child before the adoption order was made and the spouse of the adoptive parent.

Determining relationships

(3) The relationship to one another of all persons, whether the adopted child, the adoptive parent, the kindred of the adoptive parent, the parent before the adoption order was made, the kindred of that former parent or any other person, shall for all purposes be determined in accordance with subsections (1) and (2).

Application of section 37

38. (1) Subsections 37(1) and (3), except the reference to subsection (2) in subsection 37(3), apply and shall be deemed to have always applied with respect to any adoption made under any predecessor Act, but not so as to affect any interest in property or right that has vested before June 1, 1970.

Wills of testators

(2) Notwithstanding subsection (1), section 37 does not apply to the will of a testator who died before or to any other instrument made before October 15, 1940.

Extra-territorial adoptions

39. An adoption effected according to the law of a province, a territory or of any other country, or part of it, before or after the coming into force of this section, has the same effect in Nunavut as an adoption under this Act. S.Nu. 2009,c.7,s.1(3).

Review of Agreement or Arrangement

Review of agreement or arrangement

40. (1) Where an agreement or arrangement, or any term of an agreement or arrangement, referred to in subsection 27(4), was not disclosed in the petition, the Director may apply to the court to review the agreement or arrangement.

Notice

(2) The Director must serve a copy of the originating notice commencing the application under subsection (1) and the affidavit in support of the application on the adoptive parent and on any other party to the agreement or arrangement.

Order

(3) On reviewing the agreement or arrangement in an application under subsection (1), the court may, where the court considers that it is in the best interests of the child to do so, make an order

- (a) dismissing the application;
- (b) requiring the agreement or arrangement to be modified as the court determines within the time specified by the court; or
- (c) declaring the adoption order void *ab initio*.

Further order

(4) Where the modifications referred to in paragraph (3)(b) are not made within the time specified by the court or within any extension of time that the court may allow, the court may, where the court considers that it is in the best interests of the child to do so, make a further order declaring the adoption order void *ab initio*.

Report of Adoption Worker

(5) The court may request an Adoption Worker to prepare a report on the arrangement or agreement or the adoption for the purpose of making an order under subsection (3).

Financial or Other Assistance after Departmental Adoptions

Provision of assistance after adoption

41. (1) After an adoption order is made in respect of a departmental adoption, the Director may, on application, arrange, subject to the regulations, for the provision of financial assistance or other assistance authorized by the regulations to the child's adoptive parent, where Director is satisfied that

- (a) the child has a physical or mental condition that is congenital in nature and that was not reasonably apparent prior to the adoption of the child; and
- (b) the care, treatment or assistance required by the child because of that condition would place an undue burden on the financial resources of the adoptive parent.

Review of assistance by Director

(2) The Director may review, vary or terminate the assistance in accordance with the regulations.

Review of Director's decision

(3) Where the Director decides to vary or terminate the assistance provided to a child under this section, the adoptive parent of the child may apply to the Minister, in accordance with the regulations, to review the decision of the Director.

Decision of Minister

(4) The Minister shall conduct a review in accordance with the procedures set out in the regulations and may make any inquiries that the Minister considers necessary, and may affirm, set aside or vary the decision of the Director, and the decision of the Minister is final.

Placement Outside Nunavut

Private Placement

Prohibition on placement without approval or notice

- 42.** (1) No person shall place outside Nunavut, for the purpose of adoption, a child who is ordinarily resident in Nunavut unless the person has
- (a) obtained the Director's written approval of the proposed placement under section 43; or
 - (b) given written notice of the proposed placement to the Director or an Adoption Worker in accordance with this section and the regulations, where the child is to be placed with a person who is a relative of the child.

Offence and punishment

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000, to imprisonment for a term not exceeding one year or to both.

Notice of proposed placement with relative

(3) The notice of a proposed placement required by paragraph (1)(b) must be given no later than 30 days before the date on which the proposed placement is to occur, unless the Director agrees otherwise.

Notice to be given to Director

(4) An Adoption Worker shall, without delay, forward any notice of a proposed placement that is received under this section to the Director.

Director to give notice

(5) On receiving a notice of a proposed placement the Director shall provide a copy to the Director of Child and Family Services and the appropriate official of the jurisdiction within which the child is to be placed. S.Nu. 2009,c.7,s.1(3).

Director's approval of proposed placement

43. (1) A person who wishes to obtain the Director's written approval of the proposed placement outside Nunavut of a child referred to in subsection 42(1) must make an application, in accordance with this Act and the regulations, and submit the application to the Director or to an Adoption Worker who shall refer it to the Director.

Application process

- (2) The application must be supported by a pre-placement report on the person or, in the case of a joint placement, on each person with whom it is proposed to place the child that
- (a) is prepared and sent directly to the Director, at the request and expense, if any, of the applicant or the person or persons with whom it is proposed to place the child, by an agency, organization

- or person satisfactory to the Director of the jurisdiction within which the child is to be placed; and
- (b) is, in the opinion of the Director, consistent with the guidelines referred to in paragraph 7(3)(a).

Time for submitting reports

(3) The application and pre-placement report must be submitted or received no later than 30 days before the date on which the proposed placement is to occur, unless the Director agrees otherwise.

Views of child

(4) Before the Director makes a decision in respect of the proposed placement, an Adoption Worker shall

- (a) interview the child who is to be placed, where
- (i) the child has attained the age of 12 years, or
 - (ii) the child is less than the age of 12 years and it is reasonable to interview the child,
- for the purposes described in subsections 7(4) and (5); and
- (b) report his or her findings to the Director.

Time for decision of Director

(5) On receiving the application and pre-placement report, the Director shall, without delay, review those documents and the report referred to in paragraph (4)(b), conduct any consultation required by subsection (6) and make a decision on the proposed placement within 30 days after the submission of the application in accordance with this section or such shorter period of time as the Director may have agreed to.

Application of subsections 7(7) to (16)

(6) Subsections 7(7) to (16) apply, with such changes as the circumstances require, to an application for the Director's approval of a proposed placement under this section. S.Nu. 2009,c.7,s.1(3).

Departmental Placement

Placement by Director

44. (1) A child who is in the permanent custody of the Director of Child and Family Services may be placed by the Director, on application and in accordance with the regulations, outside Nunavut for the purpose of adoption under the laws of another jurisdiction and, subject to this section, sections 16 and 18 apply to the application and placement, with such modifications as the circumstances require.

Pre-placement report

(2) The Director shall not consider an application referred to in subsection (1) unless it is made in accordance with the regulations and the Director has received a pre-placement report concerning the applicant, or applicants, as the case may be, that

- (a) is prepared and sent directly to the Director, at the request and expense, if any, of the applicant, by an agency, organization or person satisfactory to the Director of the jurisdiction within which it is requested that the child be placed; and
- (b) is, in the opinion of the Director, consistent with the guidelines referred to in paragraph 15(2)(a).

Preference for placement in Nunavut

(3) The Director may only place a child outside Nunavut for the purpose of adoption with an approved applicant if it is in the best interests of the child to do so, and before making that decision the Director shall first consider placing the child with each of the applicants who are approved for the purposes of a departmental adoption under this Act. S.Nu. 2009,c.7,s.1(3).

PART II

ADOPTION RECORDS

Adoption Order

Certified copies of adoption order

- 45.** Where an adoption order is made, the Clerk shall make and send
- (a) to the Director, one certified copy of the adoption order or the number of certified copies of the adoption order that the Director requests; and
 - (b) to the Registrar General, one certified copy of the adoption order or, where the adopted person was born outside Nunavut, two certified copies of the adoption order, together with any other information that the Registrar General requires to enable him or her to carry out the requirements of the *Vital Statistics Act*. S.Nu. 2009,c.7,s.1(3).

Request for certified copy of adoption order

46. (1) On the request of an adoptive parent or an adopted person, and on payment of the prescribed fee, if any, the Director shall request a certified copy of the adoption order from the Clerk who shall make and send a certified copy of the adoption order to the Director, and the Director shall provide it to the parent or person.

Application

(2) Subsection (1) applies whether or not the adoption was made under this Act or under any predecessor Act. S.Nu. 2009,c.7,s.1(3).

Adoption Records

Sealed packet

47. (1) After the certified copies of an adoption order are made under section 45, the Clerk shall put the petition, the material used in support of the petition, the record of proceedings and the adoption order in a sealed packet.

Opening sealed packet

(2) A sealed packet referred to in subsection (1) may be opened on the written request of the Director for the purpose of supplying further certified copies of the adoption order or providing any other information contained in the sealed packet to the Director, but otherwise no person shall open the sealed packet and no person shall make public or disclose any information contained in it to any person except on the order of the court.

Application of subsection (2)

(3) Subsection (2) applies whether or not the adoption was made under this Act or under any predecessor Act.

Offence and punishment

(4) Every person who contravenes subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000, to imprisonment for a term not exceeding six months or to both. S.Nu. 2009,c.7,s.1(3).

Duty of Director respecting records

48. (1) As soon as possible after receiving a certified copy of an adoption order from the Clerk under paragraph 45(a), the Director shall deposit with the Adoption Registry either

- (a) the Director's records relating to the adopted person; or
- (b) reproductions made in the prescribed manner of those records.

Director's records

(2) The records referred to in subsection (1) include all personal histories completed before the adoption order was made and any records, documents and information that are required to be included by the regulations.

Destruction of records

(3) Where, under subsection (1), the Director has deposited reproductions made in the prescribed manner of his or her records relating to an adopted person, the Director may destroy all or part of the records from which the reproductions were made.

Transitional

(4) On the coming into force of this section, the Director shall deposit with the Adoption Registry the records and microfilm of the records of the Superintendent of Child Welfare referred to in subsections 104(1) and (2) of the *Child Welfare Act*, R.S.N.W.T. 1988,c.C-6, relating to adoptions made under any predecessor Act. S.Nu. 2009,c.7,s.1(3).

PART III

ADOPTION REGISTRY

Definition

49. In paragraphs 50(1)(d) and 67(2)(a) and subsections 68(1) and (2), "adopted person" means a person adopted under this Act and a person adopted under any predecessor Act.

Adoption Registry

Adoption Registry

- 50.** (1) The Minister shall establish an Adoption Registry for the purpose of
- (a) maintaining an Adoption Register that, in respect of each adoption completed under this Act,
 - (i) lists the names of the persons referred to in section 52,
 - (ii) describes the type of adoption,
 - (iii) describes the sex of the adopted person, and
 - (iv) identifies the date the adoption order was made;
 - (b) storing and maintaining
 - (i) the records of the Director or the reproductions of those records that are deposited under subsection 48(1),
 - (ii) the records and microfilm of the records of the Superintendent of Child Welfare deposited under subsection 48(4), and
 - (iii) personal histories and updates of personal histories deposited with the Adoption Registry;
 - (c) disclosing registry information in accordance with this Act and the regulations; and
 - (d) facilitating a reunion between an adopted person and his or her natural parent of an adopted person.

Confidentiality of information

(2) Notwithstanding the provisions in the *Access to Information and Protection of Privacy Act* allowing disclosure of personal information as defined in that Act, registry information shall not be made public or disclosed to any person except

- (a) on the order of the court; or
- (b) otherwise in accordance with this Part.

Registrar

51. (1) The Minister shall appoint a Registrar of the Adoption Registry.

Powers and duties of Registrar

(2) The Registrar

- (a) shall maintain the Adoption Registry in accordance with the regulations; and
- (b) may exercise the powers and shall perform the duties of the Registrar under this Act and the regulations.

Reproduction of information

(3) The Registrar may have registry information reproduced in any prescribed manner and may, after it is reproduced, destroy all or part of the information as originally deposited.

Persons named in Adoption Register

52. (1) The following persons must be named in the Adoption Register in respect of any adoption unless the Adoption Worker is unable to identify them:

- (a) the adopted person;
- (b) the person who, immediately before the adoption order was made, was the parent of the adopted person, any child of that parent and, if he or she has completed a personal history, the grandparent of the adopted person;
- (c) the natural parent of the adopted person, any child born to or adopted by the natural parent before the adoption order was made and, if he or she has completed a personal history, the natural grandparent of the adopted person;
- (d) where the adopted person was adopted previously, the person who was the former adoptive parent of the adopted person under that adoption, any child born to or adopted by the former adoptive parent before the adoption order was made and, if he or she has completed a personal history, the former adoptive grandparent of the adopted person; and
- (e) the adoptive parent and any child born to or adopted by the adoptive parent before the adoption order was made.

Adding name to Adoption Register

(2) A person who is a person referred to in paragraphs (1)(b) to (e) and has not been named in the Adoption Register in respect of an adoption, or a grandparent referred to in paragraphs (1)(b) to (d) who has not completed a personal history, may in writing request the Registrar to be named in the Adoption Register or, if that person has not attained the age of 12 years, his or her parent may make the request on his or her behalf, and the Registrar shall name that person in the Adoption Register.

Naming subsequent children

(3) A parent referred to in paragraphs (1)(b) to (e) may notify the Registrar in writing of any child born to or adopted by the parent after an adoption order is made or that child may notify the Registrar, if the child has attained the age of 12 years, and the Registrar shall name the child in the Adoption Register.

Adding names of related persons

(4) A person who is related by blood or through adoption to a person referred to in paragraphs (1)(b) to (e) may, in writing, request the Registrar to be named in the Adoption Register, and the Registrar shall name that person in the Adoption Register.

Personal Histories

Private and Step-parent Adoptions

"relevant persons" defined

53. (1) In this section, "relevant persons" means

- (a) the child to be adopted if the child has attained the age of 12 years;
- (b) the parent of the child to be adopted and his or her children who have attained the age of 12 years;
- (c) where the parent of the child to be adopted is not the natural parent, the natural parent and his or her children who have attained the age of 12 years;
- (d) where the child to be adopted was adopted previously, the former adoptive parent and his or her children who have attained the age of 12 years; and
- (e) the petitioner or the person who intends to petition and his or her children who have attained the age of 12 years.

Explanation of Adoption Registry

(2) During the preparation of a family union report or, in the case of the adoption of a person who has attained the age of majority, before the petition is presented to the court, an Adoption Worker shall endeavour to meet with each of the relevant persons and

- (a) explain the purpose of the Adoption Registry;
- (b) describe who will be named in the Adoption Register;
- (c) advise each relevant person that if he or she consents, his or her personal history will be completed and deposited with the Adoption Registry and if he or she does not consent, the reason for not consenting will be deposited with the Adoption Registry;
- (d) explain who is entitled under this Act to obtain or disclose registry information and under what circumstances; and
- (e) explain that an adopted person and a natural parent of an adopted person may participate in a reunion.

Identity of unknown parent

(2.1) When meeting with a relevant person under subsection (2) who is a parent, natural parent or former adoptive parent of the child to be adopted, the Adoption Worker shall encourage him or her to identify any parent, natural parent or former adoptive parent of the child who is unknown to the Adoption Worker.

Future children and personal histories

(3) When meeting with a relevant person under subsection (2) who is a parent, natural parent or former adoptive parent of the child to be adopted, or the petitioner or person who intends to petition, the Adoption Worker shall encourage him or her to

- (a) notify an Adoption Worker of any child born to or adopted by him or her before the adoption order is made and have an Adoption Worker complete a personal history of the child;
- (b) notify the Registrar of any child born to or adopted by him or her after the adoption order is made and have an Adoption Worker complete a personal history of the child;
- (c) keep his or her personal history and that of his or her children updated; and
- (d) inform his or her children on attaining the age of 12 years that
 - (i) they are named in the Adoption Register, and
 - (ii) their personal history has been completed and deposited with the Adoption Registry or, where their personal history has not been completed, they may have their personal history completed and deposited with the Adoption Registry.

"grandparent" defined

54. (1) In this section, "grandparent" means the parent of the parent, natural parent or former adoptive parent of a child to be adopted.

Personal histories

(2) Subject to this section, an Adoption Worker shall, in accordance with the regulations, endeavour to complete a personal history of

- (a) the child to be adopted;
- (b) the parent, natural parent and former adoptive parent of the child to be adopted and of their children;
- (c) subject to subsection (6), the grandparent of the child to be adopted; and
- (d) the petitioner or the person who intends to petition and his or her children.

Consent to personal history

(3) An Adoption Worker must obtain the written consent of a person to the completion of his or her personal history.

Parent's consent for child

(4) A parent, natural parent or former adoptive parent of the child to be adopted, petitioner or person who intends to petition may consent to the completion of a personal history of his or her child who has not attained the age of 12 years on behalf of the child.

Recording reason for no consent

(5) An Adoption Worker shall record the reason given by a person for not consenting to the completion of his or her personal history or the personal history of his or her child who has not attained the age of 12 years, and the reason given by a child who has attained the age of 12 years for not consenting to the completion of his or her personal history.

Consent to contact grandparent

(6) Before contacting a grandparent about completing a personal history, an Adoption Worker must obtain the consent of the parent, natural parent or former adoptive parent of the child to be adopted to contact the grandparent and if that person does not consent, the Adoption Worker shall record the reason given by that person for not consenting.

Meeting with grandparent

(7) Where an Adoption Worker has obtained the consent referred to in subsection (6), the Adoption Worker shall meet with the grandparent and

- (a) advise the grandparent that he or she will be named in the Adoption Register if his or her personal history is completed and deposited with the Adoption Registry;
- (b) review with the grandparent the matters referred to in paragraphs 53(2)(a) to (e); and
- (c) encourage the grandparent to keep his or her personal history updated.

Notice of child before adoption order made

55. A parent, natural parent or former adoptive parent of a child to be adopted, petitioner or person who intends to petition may notify, in writing, an Adoption Worker or, where an adoption order has been made, the Registrar of any child born to or adopted by him or her after the meeting referred to in subsection 53(2) and before the adoption order is made and, if the consent to the completion of a personal history of the child is given, the Adoption Worker shall, in accordance with the regulations, complete a personal history of that child.

Departmental Adoptions

"relevant persons" defined

56. (1) In this section, "relevant persons" means

- (a) the child to be adopted if the child has attained the age of 12 years;
- (b) the parent of the child to be adopted and his or her children who have attained the age of 12 years;

- (c) where the parent of the child to be adopted is not the natural parent, the natural parent and his or her children who have attained the age of 12 years; and
- (d) where the child to be adopted was adopted previously, the former adoptive parent and his or her children who have attained the age of 12 years.

Explanation of Adoption Registry before permanent custody order is made

(2) At the direction of the Director and before an order referred to in subsection 14(1) is made, an Adoption Worker shall endeavour to meet with each of the relevant persons and

- (a) explain the purpose of the Adoption Registry;
- (b) describe who will be named in the Adoption Register;
- (c) advise each relevant person that if he or she consents, his or her personal history will be completed and deposited with the Adoption Registry and if he or she does not consent, the reason for not consenting will be deposited with the Adoption Registry;
- (d) explain who is entitled under this Act to obtain or disclose registry information and under what circumstances; and
- (e) explain that an adopted person and a natural parent of an adopted person may participate in a reunion.

Identity of unknown parent

(2.1) When meeting with a relevant person under subsection (2) who is a parent, natural parent or former adoptive parent of the child to be adopted, the Adoption Worker shall encourage him or her to identify any parent, natural parent or former adoptive parent of the child who is unknown to the Adoption Worker.

Future children and personal histories

(3) When meeting with a relevant person under subsection (2) who is a parent, natural parent or former adoptive parent of the child to be adopted, the Adoption Worker shall encourage him or her to

- (a) notify an Adoption Worker of any child born to or adopted by him or her before the adoption order is made and have an Adoption Worker complete a personal history of the child;
- (b) notify the Registrar of any child born to or adopted by him or her after the adoption order is made and have an Adoption Worker complete a personal history of the child;
- (c) keep his or her personal history and that of his or her children updated; and
- (d) inform his or her children on attaining the age of 12 years that
 - (i) they are named in the Adoption Register, and

- (ii) their personal history has been completed and deposited with the Adoption Registry or, where their personal history has not been completed, they may have their personal history completed and deposited with the Adoption Registry.

"grandparent" defined

57. (1) In this section, "grandparent" means the parent of the parent, natural parent or former adoptive parent of a child to be adopted.

Personal histories

(2) At the direction of the Director and before an order referred to in subsection 14(1) is made, an Adoption Worker shall, subject to this section and in accordance with the regulations, endeavour to complete a personal history of

- (a) the child to be adopted;
- (b) the parent, natural parent and former adoptive parent of the child to be adopted and of their children; and
- (c) subject to subsection (6), the grandparent of the child to be adopted.

Consent to personal history

(3) An Adoption Worker must obtain the written consent of a person to the completion of his or her personal history.

Parent's consent for child

(4) A parent, natural parent or former adoptive parent of the child to be adopted may consent to the completion of a personal history of his or her child who has not attained the age of 12 years on behalf of the child.

Recording reason for no consent

(5) An Adoption Worker shall record the reason given by a person for not consenting to the completion of his or her personal history or the personal history of his or her child who has not attained the age of 12 years, and the reason given by a child who has attained the age of 12 years for not consenting to the completion of his or her personal history.

Consent to contact grandparent

(6) Before contacting a grandparent about completing a personal history, an Adoption Worker must obtain the consent of the parent, natural parent or former adoptive parent of the child to be adopted to contact the grandparent and if that person does not consent, the Adoption Worker shall record the reason given by that person for not consenting.

Meeting with grandparent

(7) Where an Adoption Worker has obtained the consent referred to in subsection (6), the Adoption Worker shall meet with the grandparent and

- (a) advise the grandparent that he or she will be named in the Adoption Register if his or her personal history is completed and deposited with the Adoption Registry;
- (b) review with the grandparent the matters referred to in paragraphs 56(2)(a) to (e); and
- (c) encourage the grandparent to keep his or her personal history updated.

Notice of child before adoption order made

58. A parent, natural parent or former adoptive parent of a child to be adopted may notify, in writing, an Adoption Worker or, where an adoption order has been made, the Registrar, in writing, of any child born to or adopted by him or her after the meeting referred to in subsection 56(2) and before the adoption order is made and, if the consent to the completion of a personal history of the child is given, the Adoption Worker shall, in accordance with the regulations, complete a personal history of that child.

Explanation of Adoption Registry

59. (1) During the preparation of a pre-placement report, an Adoption Worker shall meet with the applicant and his or her children who have attained the age of 12 years and

- (a) explain the purpose of the Adoption Registry;
- (b) describe who will be named in the Adoption Register;
- (c) advise him or her that, on placement of a child with him or her, if he or she consents, his or her personal history will be completed and deposited with the Adoption Registry and if he or she does not consent, the reason for not consenting will be deposited with the Adoption Registry;
- (d) explain who is entitled under this Act to obtain or disclose registry information and under what circumstances; and
- (e) explain that an adopted person and a natural parent of an adopted person may participate in a reunion.

Future children and personal histories

(2) When meeting with an applicant under subsection (1), the Adoption Worker shall encourage the applicant to do the following, if a child is placed with the applicant:

- (a) notify an Adoption Worker of any child born to or adopted by the applicant before the adoption order is made and have an Adoption Worker complete a personal history of the child;
- (b) notify the Registrar of any child born to or adopted by the applicant after the adoption order is made and have an Adoption Worker complete a personal history of the child;
- (c) keep his or her personal history and that of his or her children updated; and

- (d) inform his or her children on attaining the age of 12 years that
 - (i) they are named in the Adoption Register, and
 - (ii) their personal history has been completed and deposited with the Adoption Registry or, where their personal history has not been completed, they may have their personal history completed and deposited with the Adoption Registry.

Personal histories

60. (1) Subject to this section, an Adoption Worker shall, on the placement of a child with an approved applicant and in accordance with the regulations, endeavour to complete a personal history of the applicant and of his or her children.

Consent to personal history

(2) An Adoption Worker must obtain the written consent of the applicant and of his or her children who have attained the age of 12 years for the completion of his or her personal history.

Parent's consent for child

(3) An applicant may consent to the completion of a personal history of his or her child who has not attained the age of 12 years on behalf of the child.

Recording reason for no consent

(4) An Adoption Worker shall record the reason given by an applicant for not consenting to the completion of his or her personal history or the personal history of his or her child who has not attained the age of 12 years, and the reason given by a child who has attained the age of 12 years for not consenting to the completion of his or her personal history.

Notice of child before adoption order made

61. An applicant with whom a child has been placed may notify an Adoption Worker or, where an adoption order has been made, the Registrar, in writing of any child born to or adopted by the applicant after the completion of the personal histories under section 60 and before the adoption order is made, and, if the consent to the completion of a personal history of the child is given, the Adoption Worker shall, in accordance with the regulations, complete a personal history of that child.

Completion of Personal History After Order Made

Personal history after adoption order made

62. (1) Subject to subsection (1.1), a person who is named in the Adoption Register but has not completed a personal history or, if the person has not attained the age of 12 years, his or her parent, may request the Registrar to arrange to have an Adoption Worker complete his or her personal history or the personal history of his or her child, and the Registrar shall deposit the personal history with the Adoption Registry.

Request by grandparent

(1.1) Where the parent, natural parent or former adoptive parent of a child to be adopted does not consent to an Adoption Worker contacting a grandparent of the child for the purpose of completing a personal history of the grandparent under section 54 or 57, the grandparent may not make a request under subsection (1) unless the grandparent submits proof, satisfactory to the Registrar, of the parent's consent to the request or the death of the parent.

Updates to personal histories

(2) Any person whose personal history has been deposited with the Adoption Registry may update his or her personal history in accordance with the regulations and the Registrar shall deposit the updates with the Adoption Registry.

Disclosure of Registry Information

Notification of counselling

63. (1) Before disclosing registry information under sections 64 and 66, the Registrar shall

- (a) advise the person requesting the information that they are entitled to receive counselling; and
- (b) inform the Director of the name of the person who has requested the registry information.

Counselling

(2) Before registry information is disclosed, the Director shall, if the Director considers it appropriate in the circumstances, offer counselling to the person requesting the information and, if the counselling is accepted, the Director shall make counselling available to that person.

Registry information

64. (1) Subject to subsection (2), the following persons are entitled to receive registry information that relates to the adoption of a person from the Registrar in accordance with the regulations:

- (a) the adopted person, if he or she has attained the age of majority;
- (b) a person who was a parent or grandparent of the adopted person immediately before the adoption order was made and any child of that parent who has attained the age of majority;
- (c) a natural parent or grandparent of the adopted person and any child of that natural parent who has attained the age of majority;
- (d) where the adopted person was adopted previously, the former adoptive parent or grandparent of the adopted person under that adoption and any child of that former adoptive parent who has attained the age of majority;
- (e) an adoptive parent of the adopted person and any child of that parent who has attained the age of majority.

Limitation

(2) The Registrar may not provide registry information under paragraphs (1)(b) to (e) until the adopted person has attained the age of majority.

Further disclosure

(3) A person listed in subsection (1) who receives registry information under this section may disclose it to any person.

Reason for no consent

65. Where a person entitled under section 64 to receive registry information requests information that would be contained in a personal history but no personal history has been deposited with the Adoption Registry, the Registrar shall inform the person requesting the information of the reason recorded by the Adoption Worker for

- (a) the person not giving their consent to the completion of a personal history; or
- (b) in the case of the personal history of a grandparent of an adopted person, the parent, natural parent or former adoptive parent of the adopted person not consenting to an Adoption Worker contacting the grandparent about completing a personal history.

Adoptions under predecessor Act

66. (1) Where an adoption was made under any predecessor Act and the adopted person has attained the age of majority, the Registrar may disclose registry information that relates to that adoption in accordance with the regulations to

- (a) the adopted person with the consent of the natural parent of the adopted person about whom the adopted person is seeking information; and
- (b) a natural parent of the adopted person with the consent of the adopted person.

Search by Registrar

(2) On receiving a request from an adopted person, a natural parent or an adoptive parent for information that may be disclosed to him or her under subsection (1), the Registrar shall conduct a discreet and reasonable search for the person whose consent to the disclosure is required in order to request his or her consent and where the person cannot be found after the search has continued for at least one year, the Registrar may disclose the information to the person who made the request.

Further disclosure

(3) A person listed in paragraph (1)(a) or (b) who receives information under this section may disclose it to any person.

Independent disclosure by Registrar

67. (1) Regardless of whether or not an adopted person has attained the age of majority, the Registrar may disclose, in accordance with the regulations, registry information that relates to the adoption of that person to that person or to any other

person, where the Registrar considers that disclosure to the person requesting the information is required to protect the health, welfare or safety or establish the aboriginal status of the adopted person or any other person.

Further disclosure

- (2) A person who receives registry information under subsection (1)
- (a) in the course of his or her professional or official duties, may disclose it further only for the purpose of protecting the health, safety, welfare or establishing the aboriginal status of the adopted person or of any other person; and
 - (b) other than as described in paragraph (a), may disclose it to any person.

Application

(3) This section applies whether or not the adoption was made under this Act or under any predecessor Act.

Reunion

68. (1) At the request of an adopted person or a natural parent of an adopted person, the Registrar shall conduct a discreet and reasonable search for the other and ascertain whether he or she wishes to be involved in a reunion.

Counselling before reunion

(2) Before a reunion takes place, the Director shall offer counselling and, if accepted, make counselling available to the adopted person, the natural parent and the adoptive parent.

Application

(3) This section applies whether or not the adoption was made under this Act or under any predecessor Act.

PART IV

GENERAL

Administration

Director of Adoptions

69. (1) The Minister shall appoint a Director of Adoptions.

Duties of Director

- (2) The Director shall
- (a) perform the duties imposed on the Director by this Act and the regulations;

- (b) ensure that the provisions of this Act and the regulations are carried out; and
- (c) prepare the information on services referred to in section 4 and paragraph 11(a).

Powers of Director

(3) The Director may

- (a) exercise any power that is conferred on the Director by this Act or the regulations;
- (b) in writing, authorize an Adoption Worker to assist the Director in the exercise of any or all of the Director's powers or in the performance of any or all of the Director's duties under this Act or the regulations;
- (c) exercise any power conferred or perform any duty imposed on an Adoption Worker under this Act or the regulations;
- (d) authorize a person, who in the opinion of the Director is qualified to do so, to prepare a pre-placement or family union report; and
- (e) issue the guidelines referred to in this Act.

Adoption Workers

70. (1) The Director may appoint Adoption Workers for Nunavut.

Powers and duties

(2) An Adoption Worker has the powers conferred and the duties imposed on an Adoption Worker by this Act and the regulations and shall assist the Director in the exercise of any powers or in the performance of any duties of the Director that the Director has authorized under paragraph 69(3)(b).

Direction of Director

(3) An Adoption Worker is subject to the direction of the Director in the exercise of any power and in the performance of any duty of an Adoption Worker under this Act or the regulations. S.Nu. 2009,c.7,s.1(3).

Liability

71. The Director, Registrar, Adoption Workers, persons authorized by the Director to prepare a pre-placement report or a family union report and any other person having powers or duties under this Act or the regulations shall not be liable for anything done or not done by him or her in good faith in the performance of his or her duties or in the exercise of his or her powers.

72. Repealed, S.Nu. 2012,c.17,s.1.

Procedure

Hearing

73. (1) All proceedings under this Act shall be heard by the court in private.

Persons at hearing

(2) The following persons may be present at a hearing but no others:

- (a) the officers of the court;
- (b) the parties and their counsel;
- (c) any other person whom the court in its discretion expressly permits.

Order to bring child before court

(3) Where a petition respecting a child is pending before the court, the court may order that the child be brought before the court at any time before making an adoption order in respect of the child. S.Nu. 2009,c.7,s.1(3).

Offence and Punishment

Advertising adoptions

74. (1) No person shall publish in any form or by any means an advertisement soliciting a child for adoption or for the purpose of finding adoptive parents for children.

Exception

(2) Subsection (1) does not apply to the publication of any advertisement authorized by the Director of Adoptions for the purpose of finding prospective adoptive parents for children placed in the permanent custody of the Director of Child and Family Services who are available for adoption.

Offence and punishment

(3) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000, to imprisonment for a term not exceeding six months or to both.

Procuring child for adoption for payment or reward

75. (1) Every person, other than the Director, who gives or receives or agrees to give or receive any payment or reward, either directly or indirectly, to procure or assist in procuring a child for the purpose of adoption, is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000, to imprisonment for a term not exceeding one year or to both.

Exception

(2) Subsection (1) does not apply to the payment of

- (a) fees payable or costs, charges and expenses incurred in respect of services under this Act or the regulations;
- (b) proper fees, expenses and disbursements to a lawyer in respect of legal services provided in respect of an adoption of a child; or
- (c) proper fees and expenses to a medical practitioner or nurse in respect of a medical examination conducted and report of the medical examination prepared in respect of an adoption of a child.

Regulations

Regulations

76. (1) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) respecting the procedure for giving a notice referred to in subparagraph 6(1)(b)(i) of the proposed placement of a child and the form of the notice;
- (b) respecting the fees for the preparation of a pre-placement report referred to in subsection 6(3) by an Adoption Worker or by a person authorized by the Director;
- (c) respecting the making of and the fees for an application under subsection 7(1) for the Director's written approval of a proposed placement;
- (d) respecting an application for a review and the procedure for conducting a review referred to in subsection 7(11);
- (e) respecting fees for the preparation of a family union report by an Adoption Worker or by a person authorized by the Director;
- (f) respecting the making of and the fees for an application for a departmental adoption;
- (g) respecting an application for a review and the procedure for conducting a review referred to in subsection 16(3);
- (h) respecting the provision of financial assistance or other assistance to an applicant under subsection 17(1), by agreement or otherwise, and the review, variation or termination of that assistance;
- (i) respecting other assistance referred to in subsection 17(1);
- (j) respecting an application for a review referred to in subsection 17(5), including the time period within which it must be made, and the procedure for conducting the review;
- (k) respecting the placement of a child through a departmental adoption, including terms and conditions of placement;
- (l) respecting the form of a consent and a revocation of a consent to an adoption;
- (m) respecting the form of an adoption order;
- (n) prescribing a fee for a certified copy of an adoption order;
- (o) respecting the provision of financial assistance or other assistance to an adoptive parent under subsection 41(1), by agreement or otherwise, and the review, variation or termination of that assistance;
- (p) respecting other assistance referred to in subsection 41(1);
- (q) respecting an application for a review referred to in subsection 41(3), including the time period within which it must be made, and the procedure for conducting the review;

- (r) respecting the procedure for giving a notice referred to in paragraph 42(1)(b) of the proposed placement of a child and the form of the notice;
- (s) respecting the making of an application under subsection 43(1) for the Director's written approval of a proposed placement;
- (t) respecting an application for a review and the procedure for conducting a review of a decision of the Director under section 43;
- (t.1) respecting the placement of a child outside Nunavut by the Director under subsection 44(1);
- (u) respecting the making of an application under subsection 44(1);
- (v) respecting an application for a review and the procedure for conducting a review of a decision of the Director under section 44;
- (w) respecting the records, documents and information to be included in the records of the Director referred to in subsection 48(2);
- (x) prescribing the manner of reproducing the records of the Director relating to an adopted person referred to in subsection 48(1) and registry information referred to in subsection 51(3);
- (y) respecting the Adoption Registry;
- (z) respecting personal histories and updates of personal histories;
- (z.a) respecting counselling under section 63 and subsection 68(2);
- (z.b) further defining "registry information";
- (z.c) respecting the disclosure of registry information, including the procedure for the disclosure of such information;
- (z.d) respecting additional duties of the Director;
- (z.e) respecting forms;
- (z.e.1) respecting the establishment and maintenance of a register pursuant to subsection (2); and
- (z.f) respecting any other matter that, in the opinion of the Commissioner, is necessary for carrying out the purposes and provisions of this Act.

Consultation register

(2) The Minister shall, in accordance with the regulations, establish and maintain a register of organizations.

Adding name of register

(3) An organization may request that the Minister place its name, address, phone number and telecopier number in the register and, in accordance with the regulations, the Minister shall place that information in the register.

Consultation with organizations

(4) After the establishment of the register of organizations, the Minister shall, before making recommendations respecting the enactment of regulations under subsection (1), consult with those organizations regarding the regulations.

Consultation with persons

(5) For greater certainty, the Minister may also consult with any person or persons the Minister considers appropriate before making recommendations respecting the enactment of regulations under subsection (1). S.Nu. 2009,c.7,s.1(3).

TRANSITIONAL**Transitional**

77. (1) Notwithstanding the repeal of the *Child Welfare Act*, R.S.N.W.T. 1988,c.C-6,

- (a) the person whose appointment as the Superintendent of Child Welfare under subsection 2(1) of that Act is in effect on the coming into force of this section shall be deemed to have been appointed as the Director of Adoptions under subsection 69(1) of this Act; and**
- (b) the *Child Welfare Act* continues to apply to the adoption of a child who is placed for adoption under that Act before the coming into force of this section.**

Validity of previous consent

(2) Where a consent is given to the adoption of a child under the *Child Welfare Act* but the child is not placed for adoption under that Act before the coming into force of this section, the consent is not a valid consent for an adoption under this Act.

REPEAL**Repeal**

78. (1) Subject to subsection (2), section 1 and Parts I, V and VI of the *Child Welfare Act* are repealed.

Exception

(2) Section 1 and Parts I and VI of the *Child Welfare Act* continue to apply to Parts II, III and IV until Parts II, III or IV are repealed by another Act.

COMING INTO FORCE**Coming into force**

79. This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Commissioner.