

The Adoption Act

Repealed

by Chapter A-5.2 of *The Statutes of Saskatchewan, 1998*
(effective April 1, 2003).

Formerly

Chapter A-5.1 of the *Statutes of Saskatchewan, 1989-90*
(effective December 1, 1990) as amended by the *Statutes
of Saskatchewan, 1990-91, c.C-8.1 and 11; 1992, c.18;
1994, c.27; 1998, c.8; and 2001, c.50.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

PART I

Title and Interpretation

- 1 Short title
- 2 Interpretation
- 3 Repealed
- 4 Determination of child's best interests

PART II

Consents

5 Consent to adoption and transfer of guardianship
6 Dispensing with consent
7 Minister's consent
8 Revocation of consent or transfer of guardianship

PART III

Placement for Adoption

9	Placement of Crown ward
10	Assisted adoption of Crown wards
11	Placement by agency
12	Transfer of guardianship
13	Foster homes
14	Independent placement
15	Proof of placement
16	Termination of prior rights

PART IV

Procedure

17	Adoption order
18	Effect of order
19	Name of child
20	Duties of registrar
21	Documents sealed

21.1 Non-compellability
22 Appeals

PART V

Other Adoptions

- 23 Stepparent adoption
- 24 Adoption of an adult
- 25 Interjurisdictional placements
- 26 Orders outside Saskatchewan
- 27 International adoptions
- 28 Simple adoption orders without prior approval
- 29 Regulations – other adoptions

PART VI

General

- 30 Post-adoption registry
- 31 Confidentiality
- 32 Advertisements
- 33 No payment or reward from adoption
- 34 Unauthorized placement
- 35 Offences and penalties
- 36 No action against department, etc.
- 37 Agencies
- 38 Director
- 39 Counselling
- 40 Delegation by director
- 41 Review respecting decisions
- 42 Regulations
- 43 Service of documents
- 44 Transitional

CHAPTER A-5.1

An Act respecting Adoption

PART I

Title and Interpretation

Short title

1 This Act may be cited as *The Adoption Act*.

Interpretation

2(1) In this Act:

- (a) **“adoptive parent”** means a person who adopts a child pursuant to:
 - (i) this Act;
 - (ii) any predecessor to this Act;
 - (iii) an order of the court made pursuant to subsection 27(9); or
 - (iv) an order of the court made pursuant to section 28;
- (b) **“agency”** means a body corporate that is approved by the minister pursuant to section 37;
- (c) **“agency adoption”** means an adoption in which an agency has placed a child for adoption;
- (d) **“birth father”** means:
 - (i) in the case of a child who has not been previously adopted, the father of the child who:
 - (A) at the time of the child’s birth or conception was living with the birth mother, whether or not they were married to each other;
 - (B) together with the child’s birth mother, has registered the child’s birth pursuant to *The Vital Statistics Act*;
 - (C) has access to or custody of the child by order of a court having jurisdiction over the matter or by agreement;
 - (D) acknowledges that he is the birth father and has supported or maintained the child or the birth mother; or
 - (D.1) is not registered as the father of the child pursuant to *The Vital Statistics Act, 1995* but has been named as the birth father by the birth mother and acknowledges that he is the birth father;
 - (E) has been declared by the court to be the father of the child pursuant to Part VI of *The Children’s Law Act*; or
 - (ii) in the case of a child who has been previously adopted, a person who is the father of the child by virtue of an order of adoption;

- (e) **“birth mother”** means:
 - (i) in the case of a child who has not been previously adopted, the mother of the child; or
 - (ii) in the case of a child who has been previously adopted, a person who is the mother of the child by virtue of an order of adoption;
 - (f) **“birth parent”** means a birth mother or birth father;
 - (g) **“child”** means a person who is:
 - (i) under 18 years of age; and
 - (ii) has never been married;
 - (h) **“Crown ward”** means a child who has been permanently committed to the minister by:
 - (i) a court order; or
 - (ii) voluntary committal;
- pursuant to *The Child and Family Services Act*, *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, or *The Child Welfare Act*;
- (i) **“court”** means the Court of Queen’s Bench;
 - (j) **“department”** means the department over which the minister presides;
 - (k) **“director”** means a person appointed pursuant to section 38 and, in the absence of any appointment, the minister;
 - (l) **“independent adoption”** means an adoption in which the child is placed for adoption by a birth parent;
 - (m) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
 - (n) **“registrar”** means the local registrar of the court or the Registrar of the Court of Appeal;
 - (o) **“simple adoption order”** means an order of adoption granted in a jurisdiction other than Saskatchewan that does not necessarily for all purposes:
 - (i) terminate all the rights and responsibilities that exist at law between a child and the child’s birth parents; or
 - (ii) make an adopted child the child of the adopting parents as if born to them in lawful wedlock;
 - (p) **“spouse”** means the legally married spouse of a person or a person with whom that person is cohabiting as spouses;
 - (q) **“status Indian”** means:
 - (i) a registered Indian; or
 - (ii) a person entitled to be registered as an Indian;

pursuant to the *Indian Act* (Canada);

ADOPTION

c. A-5.1

- (r) **“stepparent adoption”** means an adoption pursuant to section 23;
 - (s) **“transfer of guardianship”** means the transfer of guardianship to an agency pursuant to section 12;
 - (t) **“voluntary committal”** means a voluntary committal pursuant to *The Child and Family Services Act* or *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*.
- (2) A reference in this Act to an Act of the Parliament of Canada is a reference to that Act as amended from time to time.

1989-90, c.A-5.1, s.2; 1990-91, c.11, s.2;
 1990-91, c.C-8.1, c.62; 1994, c.27, s.19; 1998,
 c.8, s.3; 2001, c.50, s.2.

3 Repealed. 1990-91, c.C-8.1, s.62.

Determination of child's best interests

4 Where, pursuant to this Act, a person or the court is required to determine the best interests of the child, the person or court shall take into account:

- (a) the child's physical, cultural, mental, emotional, psychological and spiritual needs;
- (b) the child's physical, mental and emotional level of development;
- (c) the religious faith, if any, in which the child has been raised;
- (d) the importance for the child's development of a positive relationship with a parent and a secure place as a member of a family;
- (e) the importance of continuity in the child's care and the possible effect on the child of disruption of that continuity;
- (f) the child's wishes, having regard to the child's age and level of development;
- (g) the effect on the child of not making the order;
- (h) in the case of a stepparent adoption, the effect that the order may have on the relationship, if any, that the child has or may have with the parent who is not the spouse of the applicant;
- (i) any relevant fact or circumstance other than those mentioned in clauses (a) to (h).

1989-90, c.A-5.1, s4.

PART II Consents

Consent to adoption and transfer of guardianship

5(1) Subject to section 6, an order of adoption of a child pursuant to section 17 or 23 shall not be made unless:

(a) the application for an order of adoption includes the consent to adoption, in the form prescribed in the regulations, of:

(i) subject to subclauses (ii), (iii) and (v):

(A) the birth mother of the child; and

(B) subject to subsection (3), the birth father of the child;

(ii) subject to clause (b), in the case of a Crown ward, only the minister;

(iii) subject to clause (b), in the case of a child with respect to whom guardianship has been transferred to or vested in an agency, only the agency;

(iv) in the case of a child who has no birth parent who is alive, the guardian or person having lawful custody of the child; or

(v) subject to clause (b), in the case of a child whose guardianship is vested in:

(A) a children's aid society;

(B) a minister or other official of a government of a jurisdiction other than Saskatchewan; or

(C) another child caring agency outside Saskatchewan;

only the society, minister, official or agency, as the case may be;

(b) in the case of a child who is 12 years of age or more, the child has given consent in the form prescribed in the regulations; and

(c) the director has certified to the court, in writing, that, to the director's knowledge, the consent of any person who may revoke his or her consent was not revoked within the time during which it was revocable.

(2) A consent to adoption or transfer of guardianship may not be given until the child is at least three days old.

(3) Where:

(a) either:

(i) the consent to adoption was signed by only the birth mother;

(ii) guardianship of the child was transferred to an agency mentioned in subclause (1)(a)(iii) by only the birth mother; or

(iii) a voluntary committal of a child was made by only the birth mother; and

ADOPTION

c. A-5.1

(b) the court has not dispensed with the consent to adoption or transfer of guardianship or with the signature to a voluntary committal by the birth father;

the court shall require an affidavit of the birth mother stating that she is the child's only birth parent, within the meaning of this Act.

(4) Every consent to adoption and every transfer of guardianship is to be accompanied by:

(a) in the case of a consent executed by a child who is the subject of the consent:

(i) an affidavit of execution; and

(ii) a certificate of independent advice that is substantially in the form prescribed in the regulations and, subject to subsection (5), completed by:

(A) a lawyer other than a lawyer acting for the adoptive parents; or

(B) if the child is a Crown ward, a lawyer other than a lawyer acting for the minister;

(b) in the case of a consent or transfer executed by the birth parent of the child or, where there is no birth parent who is alive, by the guardian or person having lawful custody of the child:

(i) an affidavit of execution;

(ii) a certificate of counselling that is substantially in the form prescribed in the regulations and completed by the director prior to the execution of the consent or transfer of guardianship; and

(iii) a certificate of independent advice that is substantially in the form prescribed in the regulations and completed by the director after the execution of the consent or transfer of guardianship;

(c) subject to subsection (5), with respect to an application pursuant to section 23, in the case of a consent executed by the birth parent who is not the spouse of the applicant:

(i) an affidavit of execution; and

(ii) a certificate of independent advice that is substantially in the form prescribed in the regulations and completed by a lawyer other than a lawyer acting for the adoptive parents.

(5) If, in the opinion of the director, a lawyer is not reasonably available to complete a certificate of independent advice required by subsection (4), the director shall appoint a person or category of persons for a particular geographic area of Saskatchewan who may complete the certificate.

(6) Every person who completes the certificate of independent advice required by subsection (4) shall:

(a) satisfy himself or herself that the consent to adoption or transfer of guardianship represents the true and informed wishes of the person who signs it; and

- (b) explain to the person signing the consent to adoption or transfer of guardianship:
 - (i) the provisions of section 8 respecting revocation of that consent to adoption or transfer of guardianship;
 - (ii) that the effect of an order of adoption is to terminate the rights and obligations of the existing parents with respect to the child; and
 - (iii) that, in the case of a birth parent, the person has the right to be informed by the director or agency, as the case may be, on request, whether the child has been adopted or placed for adoption.
- (6.1) Every person who completes a certificate of counselling shall satisfy himself or herself that the person who signs the consent or transfer of guardianship is aware of other options with respect to the care of the child.
- (7) A certificate of independent advice or a certificate of counselling that purports to be completed pursuant to the requirements of this section is admissible in evidence as prima facie proof that it was so completed.
- (8) Failure to comply with the requirements of subsection (6) or (6.1) does not, of itself, render a consent to adoption or transfer of guardianship invalid.
- (9) A consent to adoption validly executed in another jurisdiction is good and sufficient as if it had been executed pursuant to this Act.
- (10) A birth parent under 18 years of age may give a consent to the adoption of a child or a transfer of guardianship pursuant to this Act, and that consent to adoption or transfer of guardianship is as valid and effectual as if that person was 18 years of age.
- (11) Nothing prevents a person whose consent to adoption is required from being an applicant for an order of adoption if that person is a person who is permitted to make an application pursuant to section 17.
- (12) The consent of the minister required pursuant to subclause (1)(a)(ii) may be executed by the director on behalf of the minister.

1989-90, c.A-5.1, s.5; 1992, c.18, s3; 1998, c.8, s.4.

Dispensing with consent

- 6(1)** Subject to subsection (3) and sections 7 and 23, the court may, if it is in the best interests of the child, dispense with the requirement of:
 - (a) a consent to an adoption; or
 - (b) a transfer of guardianship.
- (2) An application pursuant to subsection (1) may be made at any time after the child is at least three days old.
- (3) If the court dispenses with a transfer of guardianship pursuant to subsection (1), guardianship of the child is vested in the agency to whom guardianship was transferred by one of the birth parents.

ADOPTION

c. A-5.1

(4) Where the court refuses to dispense with the requirement of consent to an adoption or a transfer of guardianship pursuant to subsection (1), the court:

- (a) shall give directions as to the custody of the child; and
- (b) may make any further order that it considers appropriate in the circumstances.

1989-90, c.A-5.1, s6.

Minister's consent

7 The court shall not dispense with the consent of the minister required pursuant to subclause 5(1)(a)(ii).

1989-90, c.A-5.1, s7.

Revocation of consent or transfer of guardianship

8(1) Subject to subsections (2) and (4), a consent to adoption or transfer of guardianship may not be revoked.

(2) Subject to subsection (4), a consent to adoption or transfer of guardianship of the child may be revoked by the person who made it:

- (a) at any time within 14 days after the day on which the consent to adoption or transfer of guardianship was signed; and
- (b) after the expiry of the period described in clause (a), at any time until the child is placed for adoption pursuant to section 15;

by delivering to the director a written notice of revocation.

(3) In the case of an agency adoption:

- (a) if, following the delivery of a written notice of revocation pursuant to subsection (2), a dispute arises as to which birth parent is to have custody of the child, an application may be made pursuant to section 6 of *The Children's Law Act*; and
- (b) if no application is made pursuant to clause (a) forthwith, the agency shall make that application;

and the court shall make an order for interim custody of the child.

(4) Prior to an order of adoption being made, the court may, having regard to the child's best interests, allow a child who has consented to be adopted to revoke the consent.

(5) Where a birth parent revokes a transfer of guardianship pursuant to subsection (2), the director shall inform:

- (a) the agency; and
- (b) where practicable, the other birth parent;

of the revocation.

1989-90, c.A-5.1, s8; 1990-91, c.C-8.1, s62.

PART III Placement for Adoption

Placement of Crown ward

9(1) In this section, “**applicant**” includes joint applicants where a Crown ward is placed with more than one person.

(2) In this section and in subclause 15(4)(a)(iii), “**Crown ward**” includes a child who was permanently committed to a child welfare authority of another jurisdiction if the minister accepts the responsibility, pursuant to *The Child and Family Services Act* or *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, for the supervision or guardianship of the child.

(3) A resident of Saskatchewan may apply to the director to have a Crown ward placed in his or her home for the purpose of adopting the Crown ward.

(4) Where the director is satisfied it is in the best interests of the Crown ward to be adopted by an applicant mentioned in subsection (3), the director may:

- (a) give responsibility for the care and supervision of a Crown ward to; or
- (b) subject to section 15, place a Crown ward with;

the applicant.

(5) Where each birth parent is required to sign the voluntary committal and only one birth parent has signed, the director may give responsibility for the care and supervision of a Crown ward to an applicant mentioned in subsection (3) pending:

- (a) the signing of the voluntary committal by the other birth parent; or
- (b) the making of an order dispensing with the requirement of the other birth parent’s signature.

(6) The director shall:

- (a) prepare, or cause to be prepared, a report for the use of the court in every case where the director places a Crown ward in a home for the purpose of adoption; and
- (b) submit that report to the court when the application to the court for an order of adoption is made.

(7) Subject to subsection (8), the director shall provide a copy of the report prepared pursuant to subsection (6) to the applicant mentioned in subsection (3) and to the birth parent on their written requests, if those written requests are made prior to the order of adoption.

(8) Unless the director has received a written acknowledgement from the birth parent and the applicant mentioned in subsection (3) stating that the identities of the birth parent and the applicant are known to each other, the director shall, when providing a copy of a report pursuant to subsection (7), remove, obliterate or withhold those portions of the report that would, in the director’s opinion, be likely to disclose the identities of the birth parent or the applicant to each other.

(9) The director may, at the request of and on behalf of an applicant mentioned in subsection (3), submit the materials for an application for adoption to the court.

ADOPTION

c. A-5.1

Assisted adoption of Crown wards

10(1) Where, in the opinion of the minister, financial assistance is required by reason of:

- (a) the special needs of a Crown ward; or
- (b) the special circumstances of the adoption of a Crown ward;

the minister may provide financial assistance by way of grant or other similar means in accordance with the regulations to any person who adopts the Crown ward.

(2) Where financial assistance is provided pursuant to subsection (1), the minister may:

- (a) review the financial assistance from time to time; and
- (b) vary or terminate the financial assistance in accordance with the regulations.

1989-90, c.A-5.1, s10.

Placement by agency

11(1) In this section, “**applicant**” includes joint applicants where a child is placed with more than one person.

(2) A resident of Saskatchewan may apply to an agency to have a child placed in his or her home for the purpose of adopting the child.

(3) Where guardianship of a child has been transferred to or vested in an agency pursuant to this Act, the agency, on being satisfied that the applicant is suitable and that it is in the best interests of the child to do so, may:

- (a) give responsibility for the care and supervision of the child to an applicant mentioned in subsection (2); or
- (b) subject to section 15, place the child with an applicant mentioned in subsection (2) for the purpose of adoption.

(4) Where each birth parent is required to sign the transfer of guardianship and only one birth parent has signed, the agency may give responsibility for the care and supervision of the child to the applicant mentioned in subsection (2) pending:

- (a) the signing of the transfer of guardianship by the other birth parent; or
- (b) the making of an order dispensing with the requirement of the other birth parent’s signature.

(5) Subject to subsection (6), an agency shall:

- (a) prepare, or cause to be prepared, and file a report for the use of the court; and
- (b) provide a copy of the report prepared pursuant to clause (a) to the applicant mentioned in subsection (2) and to the birth parent on their written requests, if those written requests are made prior to the order of adoption.

(6) Unless the agency has received a written acknowledgement from the birth parent and the applicant mentioned in subsection (2) stating that the identities of the applicant and the birth parent are known to each other, the agency shall, when providing a copy of a report pursuant to subsection (5), remove, obliterate or withhold those portions of the report that, in the agency's opinion, would be likely to disclose the identities of the birth parent and the applicant to each other.

(7) An agency may submit the material for an application for adoption to the court at the request of and on behalf of the applicant mentioned in subsection (2).

1989-90, c.A-5.1, s11.

Transfer of guardianship

12(1) Where:

- (a) a birth parent; or
- (b) the guardian of a child who has no living birth parent;

wishes to place his or her child for adoption through an agency, the birth parent or guardian may transfer guardianship of the child to the agency by executing a transfer of guardianship in the form prescribed in the regulations.

(2) Subject to subsection 6(3), on the execution of a transfer of guardianship by each birth parent in accordance with subsection (1), the agency has all the rights and responsibilities of a parent of the child.

(3) On an application for adoption, where a consent to adoption executed by an agency is filed with the court, the transfer of guardianship shall also be filed.

(4) Where, pursuant to subsection 6(1), the court has dispensed with the requirement for a person to transfer guardianship, that person's consent to adoption is not required.

(5) An agency shall notify the director of each transfer of guardianship within 30 days of the signing of the document by a birth parent.

(6) Unless the child has been placed for adoption, an agency that has guardianship of a child pursuant to this Act:

- (a) may apply to the court for an order pursuant to subsection (7) at any time within one year after transfer of guardianship; and
- (b) shall apply to the court for an order pursuant to subsection (7) at the end of one year after transfer of guardianship.

(7) On hearing an application pursuant to subsection (6) or (10), the court shall, having regard to the best interests of the child:

- (a) order that the child be permanently committed as a Crown ward as if an order had been made pursuant to *The Child and Family Services Act* or *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*; or
- (b) give directions as to the custody of the child.

ADOPTION

c. A-5.1

(8) An agency that makes an application pursuant to subsection (6) shall serve a copy of the application on:

- (a) unless the court orders otherwise, the birth parent; and
- (b) the director;

at least 15 days prior to making the application.

(9) On receipt of the copy of the application, the director may file with the court any information that the director considers relevant, and the judge hearing the matter shall receive the information.

(10) Where a child placed for adoption by an agency is returned to the agency pursuant to subsection 17(10):

- (a) the agency shall notify the director within 10 days of return of the child to the agency; and
- (b) the transfer of guardianship is continued for 90 days from the day of the return of the child to the agency, and:
 - (i) the agency may place the child for adoption; or
 - (ii) if the agency has not placed the child for adoption within 90 days of return of the child to the agency, the agency shall apply to the court for an order pursuant to subsection (7).

(11) Where an application is made pursuant to clause (6)(b) or sub-clause (10)(b)(ii) and the transfer of guardianship expires:

- (a) the transfer of guardianship is continued until an order is made pursuant to subsection (7), unless the court orders otherwise; and
- (b) the agency shall not place the child for adoption.

1989-90, c.A-5.1, s.12; 1990-91, c.11, s.2.

Foster homes

13(1) In this section, “**foster home**” means a foster home approved pursuant to *The Child and Family Services Act* or *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, for the care of children.

(2) The minister may enter into agreements with an agency to provide for the use by the agency of a foster home for children whose guardianship is transferred to or vested in the agency.

1989-90, c.A-5.1, s13; 1990-91, c.11, s.2.

Independent placement

14(1) Subject to subsection 25(1), a birth parent may place a child for the purpose of adoption with another person or two persons jointly of the birth parent’s choice.

(2) If a child has no living birth parent, a guardian of the child may make the placement pursuant to subsection (1).

(2.1) On an application to adopt a child who is placed pursuant to subsection (1) or (2), the applicant shall file with the court a written report, completed by a person approved by the director, with respect to the suitability of the applicant to adopt the child.

c. A-5.1**ADOPTION**

(2.2) On the request of an applicant mentioned in subsection (2.1), the director may submit the materials for the application to the court on behalf of the applicant.

(3) On an application to adopt a child who is placed pursuant to subsection (1) or (2), the court, before making an order of adoption:

(a) shall make any inquiries that it considers appropriate to satisfy itself that it is in the best interests of the child that the child be adopted by the applicant; and

(b) may direct that:

(i) any materials, in addition to those prescribed in this Act or the regulations, be filed with the court; and

(ii) the applicant appear before the court.

(4) If the court refuses to grant an order of adoption of a child who was placed pursuant to this section, the court:

(a) shall give directions as to the custody of the child; and

(b) may make any further order that it considers appropriate in the circumstances.

1989-90, c.A-5.1, s.14; 1992, c.18, s.4.

Proof of placement

15(1) Subject to subsection (3), when a child is deemed to be placed for adoption pursuant to subsection (4), a director or an agency shall execute a certificate of placement in the form prescribed in the regulations.

(2) A certificate of placement is admissible in evidence as prima facie proof that a child was placed for adoption on the date specified in the certificate of placement.

(3) No certificate of placement is required in the case of an independent adoption or stepparent adoption.

(4) A child is deemed to be placed for adoption when:

(a) either:

(i) every birth parent whose consent to adoption or transfer of guardianship or signature to a voluntary committal is required has executed a consent to adoption, transfer of guardianship or voluntary committal, as the case may be, and the time for revocation of:

(A) the consent to adoption or transfer of guardianship pursuant to clause 8(2)(a); or

(B) the voluntary committal pursuant to clause 50(1)(a) of *The Child and Family Services Act*;

for each parent has expired;

(ii) the court has dispensed with the requirement of the consent to adoption or transfer of guardianship pursuant to section 6 or with the signature to the voluntary committal and:

(A) the time for appealing the order dispensing with consent to adoption, transfer of guardianship or voluntary committal, as the case may be, has expired; or

ADOPTION

c. A-5.1

- (B) where an order mentioned in paragraph (A) has been appealed, the appeal has been discontinued or dismissed; or
- (iii) in the case of a Crown ward mentioned in subclause 2(1)(h)(i):
 - (A) the time for appealing the order permanently committing the Crown ward has expired; or
 - (B) where the order mentioned in paragraph (A) has been appealed, the appeal has been discontinued or dismissed; and
- (b) either:
 - (i) the child begins to reside with the prospective adoptive parent; or
 - (ii) care and supervision of the child has been given to and accepted by the prospective adoptive parent.
- (5) Where notice of an application for a declaration of paternity pursuant to Part VI of *The Children's Law Act* is served on the mother of the child, the child with respect to whom the application is made is not to be deemed to be placed for adoption until the application is finally determined.

1989-90, c.A-5.1, s.15; 1990-91, c.C-8.1, s.62.

Termination of prior rights

16(1) Subject to subsection (3) and subsection 23(7):

- (a) any existing right of a birth parent to have or exercise access to or custody of a child is terminated when the child is placed for adoption by a birth parent, an agency or the director; and
- (b) no application by a birth parent shall be allowed, and no order, decision or judgment for the enforcement of an access agreement or granting to a birth parent a right of custody, guardianship, maintenance or access to the child shall be made or rendered pursuant to *The Children's Law Act, 1997* or any other Act, on or after:
 - (i) the placement of a child for adoption by a birth parent, an agency or the director; or
 - (ii) the granting of an order of adoption.
- (2) For the purpose of facilitating communication or maintaining relationships, adoptive parents may consent to a birth parent or other person having access, but no provision respecting access shall be included in an order of adoption.
- (3) In the case of a stepparent adoption, any existing right of the birth parent who is not the spouse of the applicant to have or exercise access, granted by an order of a court or by agreement, is not terminated unless otherwise ordered by the court.
- (4) When making an order for the purpose of subsection (3), the court shall have regard to the best interests of the child.
- (5) If a child has been placed for adoption by a birth parent, an agency or the director, no application shall be made to the court for a declaration of parentage pursuant to Part VI of *The Children's Law Act*.

1989-90, c.A-5.1, s.16; 1990-91, c.C-8.1, s.62;
1998, c.8, s.5.

**PART IV
Procedure**

Adoption order

17(1) The court may, on application pursuant to this section or section 23, grant an order of adoption of a child only if, in the opinion of the court, it is in the best interests of the child.

(2) Subject to subsection (3), an application to the court for an order of adoption of a child may be made pursuant to this section by:

- (a) married adults jointly;
- (b) an unmarried adult; or
- (c) any other person or persons that the court may allow, having regard to the best interests of the child.

(3) Subject to subsection (5), no person mentioned in subsection (2) is entitled to make an application unless the person is a resident of Saskatchewan.

(4) Where:

- (a) an application for adoption is made jointly by more than one person; and
- (b) one of the persons mentioned in clause (a) dies prior to the order of adoption being made;

the court may name the surviving applicant and the deceased applicant as the adoptive parents of the child.

(5) The court may waive the residency requirement of subsection (3) if, in the opinion of the court, it is in the best interests of the child to do so.

(6) An applicant for adoption may make the application for adoption to the court in any judicial centre.

(7) An applicant for adoption shall file:

- (a) the material prescribed in the regulations; and
- (b) any additional material that the court requires in its rules or that the judge may request.

(8) Every applicant for adoption of a child who was placed for adoption pursuant to section 9, 11 or 14 shall make the application within one year of the date on which the child was placed for adoption unless the court or the director has extended the time for the making of the application.

(9) The court shall not extend the time for making an application mentioned in subsection (8) unless the applicant has first applied to the director for an extension and has been refused.

(10) If:

- (a) an application for adoption of a child who was placed for adoption pursuant to section 9 or 11 is not made within one year of the date on which the child was placed for adoption; and
- (b) no extension of time has been granted pursuant to subsection (8);

the child shall be returned to the director or the agency, as the case may be.

ADOPTION

c. A-5.1

(11) If:

- (a) an application for adoption of a child who was placed for adoption pursuant to section 14 is not made within one year of the date on which the child was placed for adoption; and
- (b) no extension of time has been granted by the director or the court pursuant to subsection (8);

the consent to adoption pursuant to section 5 expires and an order of adoption shall not be made unless another consent to adoption pursuant to section 5 is obtained or the court dispenses with the requirement of consent to adoption pursuant to section 6.

(12) An application for adoption is to be:

- (a) heard by a judge in the judge's chambers; and
- (b) held without the presence of the public.

(13) Every application for adoption shall contain a statement of all fees, expenses and disbursements paid in connection with the adoption.

(14) On an application for adoption, the court may:

- (a) require that the child be brought before the court and may interview the child or require that another person interview the child and report the findings of the interview to the court;
- (b) require the presence of the applicant or any other person whose presence is considered necessary by the court;
- (c) direct that a formal hearing be held; or
- (d) do any combination of the things described in clauses (a) to (c).

(15) Where the court directs that a formal hearing be held pursuant to clause (14)(c), the court shall give directions as to who is required to be served with notice of the hearing and the procedure to be followed in conducting the hearing.

(16) Unless the application is made by the director on behalf of an applicant, the applicant for adoption shall serve on the director a copy of:

- (a) the application; and
- (b) any supporting material.

(17) The application and materials mentioned in subsection (16) shall be served:

- (a) at least 30 days prior to filing the application in court; or
- (b) within any period, other than the period mentioned in clause (a), that the director may allow.

(18) Where the director is served pursuant to subsection (16), the director may file with the court any information that, in the director's opinion, may be relevant to the application, and the judge hearing the application shall receive the information.

Effect of order

18(1) For all purposes, including rights to succession of property, when an order of adoption is made:

- (a) the adopted child is the child of the adoptive parent; and
- (b) the adoptive parent is the parent of the adopted child;

as if the child had been born to that parent.

(2) Subject to subsection (3), for all purposes, including rights to succession of property, when an order of adoption is made:

- (a) the adopted child ceases to be the child of his or her birth parents; and
- (b) the adopted child's birth parents cease to be the parents of the adopted child.

(3) If a person adopts the child of his or her spouse:

- (a) the child does not cease to be the child of that spouse; and
- (b) that spouse does not cease to be the parent of the child.

(4) In any testamentary or other document, whether made before or after the coming into force of this section, unless the contrary is expressed, a reference to a person or a group or class of persons described in terms of their relationship by blood or marriage to another person is deemed to refer to or to include, as the case may be, a person who comes within the description as a result of his or her own adoption or the adoption of another person.

(5) For all purposes, including rights to succession of property, on an order of adoption being made, the relationship between the adopted child and any other person is the same as it would be if the adoptive parent were the birth mother or birth father of the adopted child.

(6) Subsections (2) and (5) do not apply for the purposes of the laws relating to incest and to the prohibited degrees of marriage to remove any persons from a relationship in consanguinity that, but for this section, would have existed between them.

(7) A marriage between two persons is prohibited if, as a result of an order of adoption made prior to the marriage, the relationship between them is such that their marriage would be prohibited by the law respecting those relationships that bars the lawful solemnization of marriage.

(8) Subject to subsection (3), if the child has been previously adopted, all the legal consequences of the former order of adoption shall, on a subsequent adoption, terminate except insofar as any interests in property may have vested in the child.

(9) Nothing in this section or in any other Act or law affects an interest in property that is vested in a child prior to the adoption of the child.

ADOPTION

c. A-5.1

(10) Notwithstanding that an adopted child ceases to be the child of his or her birth parent pursuant to subsection (2), a testamentary disposition that would have benefited an adopted child if the adoption had not occurred is a valid disposition to the adopted child if it can be ascertained from the will that the intention of the testator was to benefit the child individually or as a member of a class of persons.

(11) A child adopted in accordance with an Act in force prior to the coming into force of this Act is deemed to have been adopted in accordance with this Act.

(12) Notwithstanding any other Act or law but subject to subsection (8) or section 22, an order of adoption, when issued, is:

- (a) final and irrevocable; and
- (b) not subject to question or review in any court by way of any action or proceeding.

1989-90, c.A-5.1, s.18; 1998, c.8, s.6.

Name of child

19(1) Subject to subsection (2), when an order of adoption is made:

- (a) the surname of the adoptive parent or any other allowable surname for a child pursuant to *The Vital Statistics Act* becomes the surname of the child unless the court orders that the child retain the surname under which the child's birth was registered or that the child was using prior to the adoption; and
- (b) the court may change the given name or names of the child, if the adoptive parent requests it, to any allowable given name or names pursuant to *The Vital Statistics Act*.

(2) In the case of a child who is 12 years of age or more, the court shall not change the child's name without the child's consent.

1989-90, c.A-5.1, s.19.

Duties of registrar

20(1) Not more than 10 days after a fiat or decision to grant an order of adoption is made, or a fiat or decision refusing to grant an order of adoption is made, the registrar shall send notice of the fiat or decision, in the form prescribed in the regulations, by ordinary mail to:

- (a) each applicant pursuant to section 17 or 23;
- (b) the director; and
- (c) the agency, if any, that placed the child for adoption.

(2) The registrar shall not issue an order of adoption until:

- (a) 30 days have expired from the day on which the fiat or decision to grant an order of adoption was made by the judge; and

c. A-5.1

ADOPTION

- (b) if an appeal has been commenced against the fiat or decision to grant the order of adoption or against an order dispensing with a consent to adoption or transfer of guardianship or signature to a voluntary committal, the appeal has been disposed of or discontinued.
- (3) On issuing an order of adoption, the registrar shall send a certified copy of the order of adoption by ordinary mail to:
 - (a) each adoptive parent;
 - (b) the Director of Vital Statistics together with:
 - (i) any other information that the Director of Vital Statistics requires to carry out the requirements of *The Vital Statistics Act*; and
 - (ii) if the adopted child was born outside Saskatchewan, an additional certified copy of the order of adoption;
 - (c) if the adopted child is a status Indian, the Registrar pursuant to the *Indian Act* (Canada), together with any other information that the Registrar requires to carry out the requirements of the *Indian Act* (Canada);
 - (d) the director; and
 - (e) the agency, if any, that placed the child for adoption.
- (4) Where:
 - (a) a child adopted pursuant to this Act or any predecessor to this Act is a status Indian; and
 - (b) the child or the adoptive parent of the child requests the Director of Vital Statistics to do so;
 the Director of Vital Statistics shall provide the Registrar pursuant to the *Indian Act* (Canada) with a copy of the registration of live birth of the child.
- (5) Where an order is made by the court pursuant to subsection 27(9) or section 28, the registrar shall send a certified copy of the order by ordinary mail to:
 - (a) each adoptive parent;
 - (b) the Director of Vital Statistics; and
 - (c) the director.

1989-90, c.A-5.1, s.20.

Documents sealed

- 21(1)** The registrar shall preserve the confidentiality of all documents in the possession of the court that relate to an adoption, and those documents are not available for inspection by any person unless:
- (a) otherwise ordered by the court; or
 - (b) requested by the minister.
- (2) The court shall not make an order for the purposes of clause (1)(a) unless the minister has had reasonable notice of the application to the court for the order.

ADOPTION

c. A-5.1

(3) Notwithstanding section 18 of *The Department of Social Services Act*, the director, every agency and every person who:

- (a) provides services pursuant to this Act;
- (b) administers this Act or any provision of this Act; or
- (c) administered any predecessor to this Act;

shall preserve the confidentiality of all records in the possession of the director, agency or person that relate to an adoption or to anything done pursuant to this Act and, except as otherwise provided in this Act or the regulations, those records are not available for inspection by any person without the prior written consent of the minister.

(4) Subject to subsection (5), where there is a conflict between this Act and any provision of *The Child and Family Services Act* with respect to the release of adoption records, this Act prevails.

(5) Where an adopted child becomes a Crown ward, the provisions of *The Child and Family Services Act* with respect to confidentiality and the disclosure of information apply to that child.

1989-90, c.A-5.1, s.21; 1992, c.18, s.5; 1998, c.8, s.7.

Non-compellability

21.1 The minister, officers and employees of the department, agencies, officers and employees of agencies and all other persons who are employed in or assist in the administration of this Act:

- (a) are not compellable to give evidence with respect to:
 - (i) written or oral statements made to them; or
 - (ii) knowledge or information acquired by them;

in the performance of their duties pursuant to this Act or any predecessor to this Act; and

- (b) shall not be required to produce any written statement mentioned in subclause (a)(i) at a trial, hearing or other proceeding.

1992, c.18, s.6.

Appeals

22(1) An appeal from a fiat or decision to grant an order of adoption or a fiat or decision refusing to make an order of adoption may be made to the Court of Appeal by:

- (a) an applicant pursuant to section 17, 23 or 24;
- (b) a person whose consent is required for an order pursuant to section 23 but was not obtained and not dispensed with; or
- (c) the minister.

- (2) An appeal from the making of an order pursuant to section 6 or refusal to make an order pursuant to section 6 may be made to the Court of Appeal by:
- (a) a person whose signature to a consent to adoption or transfer of guardianship was dispensed with; or
 - (b) an applicant pursuant to section 6, where the court refuses to dispense with a person's signature to the consent to adoption or transfer of guardianship.
- (3) An appeal may be made to the Court of Appeal from:
- (a) **Repealed.** 1998, c.8, s.8.
 - (b) a refusal to make an order recognizing a simple adoption order pursuant to section 28;
 - (c) **Repealed.** 1998, c.8, s.8.
 - (d) an order respecting an application for termination of access pursuant to subsection 16(3);
 - (e) an order pursuant to subsection 23(7) or (8).
- (4) A person entitled to appeal pursuant to this section shall serve and file the notice of the appeal within 30 days of the date on which the fiat, decision or order appealed from was made, but no appeal shall be commenced after an order of adoption has been issued pursuant to subsection 20(2).
- (5) Notwithstanding any other Act or law, no extension of the time for the commencement of an appeal shall be granted.
- (6) The Court of Appeal may receive further evidence on questions of fact by:
- (a) oral examination before the court;
 - (b) affidavit; or
 - (c) deposition taken before a person authorized to take oaths.
- (7) Except in the case of an appeal by the minister, a person making an appeal shall serve notice of the appeal on the director.
- (8) The Court of Appeal may:
- (a) make:
 - (i) any order that, in its opinion, ought to have been made; and
 - (ii) any further or other order as the case may require; or
 - (b) by order directed to the judge of the first instance, require that judge to:
 - (i) make any order that the circumstances of the case require; or
 - (ii) rehear the application.
- (9) Where the requirements of this Act have been substantially complied with, the Court of Appeal shall not set aside an order of adoption by reason only of a defect or irregularity in matters of procedure.

ADOPTION

c. A-5.1

(10) Not later than 10 days after the decision of the Court of Appeal, the registrar shall send a certified copy of any order made by the Court of Appeal to:

- (a) the director;
- (b) the parties to the appeal;
- (c) the agency, in the case of an agency adoption; and
- (d) any other person that the Court of Appeal directs.

(11) Subject to subsection (12), the tariff of costs established in The Queen's Bench Rules applies to all proceedings on appeal and the costs shall be in the discretion of the Court of Appeal.

(12) No costs shall be awarded against the minister or any employee of the department.

(13) The order or decision of the Court of Appeal is not subject to further appeal without leave of the Court of Appeal.

(14) An applicant for leave to appeal an order or decision of the Court of Appeal shall apply for that leave within 15 days of the date of the order or decision appealed from.

(15) Notwithstanding any other Act or law, no extension of the time to make an appeal pursuant to subsection (14) shall be granted.

1989-90, c.A-5.1, s.22; 1998, c.8, s.8.

PART V

Other Adoptions

Stepparent adoption

23(1) A resident of Saskatchewan may, with the consent of his or her spouse, apply to the court to adopt a child of the spouse if the child is:

- (a) living with the applicant; and
- (b) being cared for by the applicant.

(2) No application pursuant to subsection (1) is to be heard unless notice of the application is first served on the birth parent, if any, who is not the spouse of the applicant.

(2.1) A birth parent who is not the spouse of the applicant and who signs a consent to the adoption is deemed to have received notice of the application for the purposes of subsection (2).

(3) The notice of application mentioned in subsection (2) is to be served:

- (a) at least 30 days prior to the hearing; or
- (b) within any period, other than that mentioned in clause (a), that the court may allow.

(4) Unless the court otherwise orders, on an application pursuant to this section, no report is required to be prepared or filed by the director.

(5) On an application pursuant to this section, the court may require that the applicant file a report by a person approved by the director or another person whose qualifications are satisfactory to the court to assist the court in determining whether the proposed adoption is in the child's best interests.

(6) A birth parent who is served pursuant to subsection (2) on an application made after the coming into force of this Part may apply to the court for an order granting to the birth parent access to the child.

(7) On an application pursuant to subsection (6), the court may by order grant access if it is satisfied that it would be in the child's best interests to do so.

(8) On an application made by any party to an application pursuant to subsection (6), the court may:

- (a) alter;
- (b) vary; or
- (c) discharge;

an order made pursuant to subsection (7) if the court is satisfied that there has been a material change in circumstances since the making of the order.

(9) Where a birth parent whose consent to adoption is required pursuant to this section has refused to consent to the adoption, the court:

- (a) may adjourn the application for a period not exceeding 60 days to allow that parent to appear before it to explain why his or her consent should not be dispensed with; and
- (b) when it adjourns the application pursuant to clause (a), shall direct that the parent mentioned in that clause be served with a notice to appear before it.

(10) The court shall, before making an order pursuant to subsection (9), consider the effect, if any, that the delay caused by an adjournment may have on the child.

(11) Where:

- (a) a judge has made an order pursuant to subsection (9); and
- (b) the person served:
 - (i) does not appear at the time appointed; or
 - (ii) on appearing does not show sufficient cause why the order of adoption should not be made;

the court may dispense with that person's consent if it is in the child's best interests to do so.

(12) Notwithstanding subsection 5(4), a certificate of independent advice is not required in the case of the consent of a birth parent who is the spouse of the applicant in an application to the court pursuant to this section.

(13) Subsections 17(1), (6), (7) and (12) to (18) apply, with any necessary modification, to an application made pursuant to this section.

ADOPTION

c. A-5.1

Adoption of an adult

- 24(1)** A person who is 18 years of age or more may be adopted if:
- (a) subject to subsection (3), the person consents; and
 - (b) the court considers the reason for the adoption to be acceptable.
- (2) An application for an order of adoption of a person mentioned in subsection (1) may be made by:
- (a) married adults jointly;
 - (b) an unmarried adult; or
 - (c) any other person or persons that the court may allow, having regard to the reasons for the adoption.
- (3) If the person to be adopted pursuant to this section is unable to give or understand consent, the court may dispense with the requirement of the person's consent.
- (4) Sections 4 to 8, 27 to 30 and 34 do not apply to an adoption pursuant to this section.

1989-90, c.A-5.1, s.24.

Interjurisdictional placements

- 25(1)** A person who removes from Saskatchewan a child who is a resident of Saskatchewan for the purposes of adoption outside Saskatchewan shall give written notice to the director of the person's intention to do so at least 30 days before removing the child from Saskatchewan.
- (2) A resident of Saskatchewan who intends to receive into his or her home for the purposes of adoption a child who is:
- (a) ordinarily resident in another jurisdiction; and
 - (b) not the child of the resident;
- shall give written notice to the director of that intention at least 30 days before receiving the child into the resident's home.
- (3) The notice required by subsection (1) or (2) may be given at any time prior to or after the child's birth.
- (4) On receiving a notice pursuant to subsection (1) or (2), the director may:
- (a) cause an investigation of the facts of the case to be made;
 - (b) notify the person of relevant legislative provisions in Saskatchewan and officials to contact in the other jurisdiction to determine the requirements that are to be met in order to complete the adoption; and
 - (c) advise the appropriate officials in the other jurisdiction.
- (5) This section does not apply to a stepparent adoption.
- (6) The director may, at any time, waive the requirement of notice pursuant to subsections (1) and (2), where the director considers it to be appropriate.

1989-90, c.A-5.1, s.25.

Orders outside Saskatchewan

26 An order of adoption granted according to the law of any other jurisdiction that is substantially similar in effect to an order of adoption granted pursuant to section 17, 23 or 24 has the same effect in Saskatchewan as an order of adoption granted pursuant to the provisions of this Act.

1989-90, c.A-5.1, s.26.

International adoptions

27(1) A resident of Saskatchewan who wishes to adopt a child who is not a resident of Canada must apply to the director for approval for placement of the child.

(2) Subject to subsection (3), an applicant pursuant to subsection (1) must file with the application a written report, prepared by a person approved by the director, that includes information about:

- (a) the identity, eligibility and suitability to adopt, background and family and medical history of the applicant and the applicant's spouse, if any;
- (b) the reasons of the applicant for the proposed adoption;
- (c) the ability of the applicant to undertake an intercountry adoption; and
- (d) the characteristics of the children for whom the applicant and the applicant's spouse, if any, would be qualified to care.

(3) The director may waive the requirement for a written report where the director considers it appropriate.

(4) If the director is satisfied that an applicant pursuant to subsection (1) is eligible and suited to adopt, the director may:

- (a) approve the applicant for placement of a child or a particular child;
- (b) impose any terms and conditions on the approval that the director considers appropriate; and
- (c) arrange for placement of the child.

1998, c.8, s.10.

Simple adoption orders without prior approval

28(1) Where:

- (a) a resident of Saskatchewan adopts a child in a jurisdiction outside Canada; and
- (b) the order granted is a simple adoption order;
- (c) **Repealed.** 1998, c.8, s.11.

the resident may apply to the court for an order to recognize the simple adoption order.

ADOPTION

c. A-5.1

(2) An applicant pursuant to subsection (1) shall serve a copy of the application on the director in accordance with subsections 17(16) and (17), and the director may file with the court pursuant to subsection 17(18) any information that the director considers relevant.

(3) The court may make an order to recognize a simple adoption order if the court is satisfied that the applicant:

- (a) is a suitable adoptive parent; and
- (b) in the case of a simple adoption order to be granted after the coming into force of this Act, has complied with the laws of Saskatchewan and Canada and the laws of the jurisdiction where the simple adoption order was issued.

(4) Where the court recognizes a simple adoption order, the child is, for all purposes, including rights to succession of property, deemed to be the adopted child of the adoptive parent as if the child had been adopted in Saskatchewan pursuant to this Act.

1989-90, c.A-5.1, s.28; 1998, c.8, s.11.

Regulations – other adoptions

29 Subject to the approval of the Lieutenant Governor in Council, the minister may make regulations:

- (a) governing agencies that provide services related to international adoptions;
- (b) respecting any matter or thing that the minister considers necessary to fulfill the purposes of section 27 or 28.

1989-90, c.A-5.1, s.29.

PART VI
General

Post-adoption registry

30(1) The minister shall:

- (a) maintain a registry in which shall be recorded any information related to adoptions; and
- (b) provide any post-adoption services;

that may be prescribed in the regulations.

(2) The minister may:

- (a) provide counselling and intermediary services in connection with the registry; and
- (b) in accordance with the regulations, release information from the registry.

1989-90, c.A-5.1, s.30.

Confidentiality

31(1) Repealed. 1992, c.18, s.7.

(2) **Repealed.** 1992, c.18, s.7.

(3) The director or agency, as the case may be, shall inform a birth parent, on request, whether or not the child of the birth parent has been adopted or placed for adoption.

1989-90, c.A-5.1, s.31; 1992, c.18, s.7.

Advertisements

32(1) No person shall publish or cause to be published in any form or by any means an advertisement dealing with the adoption of a child.

(2) Subsection (1) does not apply to the publication of:

- (a) a notice pursuant to an order of the court;
- (b) an announcement of the adoption of a child; or
- (c) any advertising by the director for the purpose of locating prospective adoptive parents.

1989-90, c.A-5.1, s.32; 1992, c.18, s.8.

No payment or reward from adoption

33(1) In this section and section 34, “**adoption**” includes an adoption by virtue of a simple adoption order.

(2) Except where otherwise permitted pursuant to this Act or the regulations, no person shall:

- (a) give or receive; or
- (b) agree to give or receive;

any payment or reward, whether directly or indirectly, for any purpose related to the adoption of a child.

1989-90, c.A-5.1, s.33.

Unauthorized placement

34 Except where otherwise expressly permitted pursuant to this Act or the regulations, no person shall, without the written approval of the minister, engage in the business or practice of:

- (a) procuring or assisting in the procurement of children; or
- (b) placing or arranging the placement of children;

for the purposes of adoption.

1989-90, c.A-5.1, s.34.

ADOPTION

c. A-5.1

Offences and penalties

35(1) A person who contravenes section 32, 33 or 34 is guilty of an offence and is liable on summary conviction to:

- (a) a fine of not more than \$10,000;
 - (b) imprisonment for not more than one year; or
 - (c) both that fine and imprisonment.
- (2) No prosecution shall be commenced pursuant to this section except on the written authority of the Minister of Justice.
- (3) No prosecution shall be commenced for an offence mentioned in subsection (1) after the expiration of two years from the date of the alleged offence.

1989-90, c.A-5.1, s.35.

No action against department, etc.

36 No action lies or shall be instituted against the minister, the department, a peace officer or any officer or employee of the department or agent of the minister, where the minister, department, peace officer, officer, employee or agent is acting pursuant to the authority of this Act, the regulations or an order made pursuant to this Act, for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise of or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

1989-90, c.A-5.1, s.36.

Agencies

37 For the purposes of this Act, the minister may, in the minister's discretion, approve a body corporate that:

- (a) is incorporated, continued or registered pursuant to *The Non-profit Corporations Act*; and
- (b) in the minister's opinion, has complied with the requirements prescribed in the regulations;

as an agency to provide services respecting the adoption of children.

1989-90, c.A-5.1, s.37.

Director

38(1) The minister may appoint as a director any person that the minister considers appropriate.

(2) For the purposes of administering this Act, the minister may appoint a director:

- (a) to exercise all or any of the powers and perform all of the duties conferred or imposed on the director by this Act and that are specified in the appointment;

c. A-5.1**ADOPTION**

(b) to exercise the powers and fulfill the duties described in clause (a) for all or any part of Saskatchewan that is specified in the appointment.

1989-90, c.A-5.1, s.38.

Counselling

39 The minister may:

- (a) provide; or
- (b) enter into agreements for the provision of;

counselling or other services related to adoption.

1989-90, c.A-5.1, s.39.

Delegation by director

40 The director may authorize any employee of the department to perform in the absence of the director any of those duties or exercise any of those powers that the director is authorized by section 38 to perform or exercise.

1989-90, c.A-5.1, s.40.

Review respecting decisions

41(1) Any person who is aggrieved by a decision of:

- (a) the director; or
- (b) any person acting on behalf of the minister or director;

pursuant to this Act or the regulations may request that the decision be reviewed by the minister or, with the approval of the minister, by the Family Services Board established pursuant to *The Child and Family Services Act*.

(2) A request for review pursuant to subsection (1) does not stay or otherwise affect the validity of the decision with respect to which the review was requested.

(3) The Family Services Board mentioned in subsection (1) shall, on completing a review, submit its recommendations respecting the decision to the minister.

(4) On completing a review pursuant to subsection (1) or on receiving a recommendation pursuant to subsection (3) from the Family Services Board, the minister may:

- (a) confirm;
- (b) reverse; or
- (c) vary;

the decision with respect to which the review was requested.

1989-90, c.A-5.1, s.41.

Regulations

42 The Lieutenant Governor in Council may make regulations:

- (a) prescribing the materials to be filed on any application made pursuant to this Act;
- (b) prescribing any forms required for this Act or the regulations;
- (c) governing the provision of financial assistance pursuant to section 10;
- (d) prescribing the form for a transfer of guardianship pursuant to section 12;
- (e) prescribing the procedure to be followed on an application pursuant to section 24;
- (f) governing the operation of the registry pursuant to section 30, the provision of post-adoption services pursuant to clause 30(1)(b) and the release of information pursuant to clause 30(2)(b);
- (g) fixing or prescribing the fees applicable for anything done pursuant to this Act or the regulations, specifying by whom, and to whom, those fees are payable, requiring the payment of those fees and prescribing the circumstances under which those fees may be waived;
- (h) prescribing the contents of any report or notice required pursuant to this Act;
- (i) providing for the licensing of agencies and prescribing the standards for licensing and types of licences and any restrictions that apply to the activities that an agency may carry on;
- (j) prescribing terms and conditions of licences;
- (k) governing the suspension and cancellation of licences;
- (l) governing the records to be kept by any person or category of persons who provide any type of services pursuant to this Act or the regulations;
- (m) governing the access of any person or category of persons to any records made or kept pursuant to this Act or the regulations;
- (n) prescribing conditions governing the confidentiality of records of:
 - (i) agencies licensed pursuant to this Act; or
 - (ii) persons who provide services pursuant to this Act;
 and requiring those conditions to be complied with;
- (o) defining, enlarging or restricting the meaning of any word used in this Act but not defined in this Act;
- (p) prescribing any other matter or thing required or authorized to be prescribed in the regulations;
- (q) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Service of documents

43(1) Any document or notice required by this Act or the regulations to be given or served on a person other than the director is, unless otherwise provided for in this Act, the regulations or the rules of the court, to be served personally.

(2) A person who is required by this Act or the regulations to serve a document on or give notice to the director shall serve the document on or give the notice to:

(a) the director who is appointed for the geographic area of Saskatchewan in which the person resides; or

(b) if:

(i) no director has been appointed for the geographic area of Saskatchewan in which the person resides; or

(ii) the person does not reside in Saskatchewan;

the minister.

1989-90, c.A-5.1, s.43.

Transitional

44(1) A consent to adoption validly obtained pursuant to *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, is a valid consent to adoption for the purposes of this Act.

(2) Notwithstanding section 5, in the case of an adoption where:

(a) the consent to adoption of the birth mother was executed pursuant to *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*; and

(b) the consent to adoption of the mother only to the adoption of the child was required by that Act;

no consent of a birth father to the adoption of the child is required on an application for adoption of the child pursuant to this Act.

(3) Notwithstanding section 8, where a consent to adoption was executed pursuant to *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, within the 30 days preceding the day on which this Act comes into force, the consent continues to be revocable for a period of 30 days from the day on which the consent was executed.

(4) Where a petition for the adoption of a child was filed in the court before the coming into force of this Act:

(a) the procedures that applied pursuant to *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, may be applied by the judge hearing the petition, and the petition is deemed to comply with the procedural requirements of this Act;

ADOPTION

c. A-5.1

(b) section 64 of *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, applies with respect to an appeal against an order of adoption or a refusal by a judge to make an order of adoption; and

(c) section 68 of *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, applies with respect to the filing of an order of adoption with a local registrar of the court.

(5) A child who was placed for adoption pursuant to *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, is deemed to have been placed for adoption in accordance with section 15 of this Act, but no certificate of placement pursuant to that section is required.

1989-90, c.A-5.1, s.44; 1990-91, c.11, s.2.

