

The Adoption Act, 1998

being

Chapter A-5.2 of the *Statutes of Saskatchewan, 1998*
(effective April 1, 2003) as amended by the *Statutes of Saskatchewan*,
2001, c.51; 2004, c.4; 2009, c.V-7.21; 2014, c.11; and 2016, c.9.

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		PART V
	Preliminary		Other Adoptions
1	Short title	23	Step-parent adoption
2	Interpretation	24	Adoption of an adult
3	Determination of the child's best interests	25	Interprovincial placements
	PART II	26	Orders outside Saskatchewan
	Consents	27	International adoptions
4	Consent to adoption and transfer of guardianship	27.1	Request for information re adoptions from non-Convention countries
5	Dispensing with consent	28	Repealed
6	Minister's consent required		PART VI
7	Revocation of consent or transfer of guardianship		General
	PART III	29	Act prevails
	Placement for Adoption	29.1	Effect of order
8	Placement of permanent ward	29.2	Name of adopted person
9	Assisted adoption	29.3	Duties of registrar
10	Placement by agency	29.4	Confidentiality
11	Transfer of guardianship	29.5	Non-compellability
12	Foster homes	29.6	Appeals
13	Independent placement	30	Post-adoption registry
14	Proof of placement	31	Birth parent request
15	Termination of prior rights	32	Advertisements –restrictions
	PART IV	33	No payment or reward
	Procedure	34	Unauthorized placement
16	Adoption order	35	Offences and penalties
17	Repealed	35.1	Minister may apply for compliance order
18	Repealed	36	Immunity
19	Repealed	37	Agencies
20	Repealed	38	Director
21	Repealed	39	Delegation by director
22	Repealed	40	Counselling
		41	Review respecting decisions
		42	Regulations – minister
		43	Regulations – Lieutenant Governor in Council
		44	Service of documents
			PART VII
			Repeal, Transitional and Coming into Force
		45	S.S. 1989-90, c.A-5.1 repealed
		46	Transitional
		47	Coming into force

CHAPTER A-5.2
An Act respecting Adoption

PART I
Preliminary

Short title

1 This Act may be cited as *The Adoption Act, 1998*.

Interpretation

2 In this Act:

“adoptive parent” means a person who adopts a child pursuant to:

- (a) this Act;
- (b) any predecessor to this Act; or
- (c) an order of the court made pursuant to section 28, as that section existed on the day before the coming into force of *The Adoption Amendment Act, 2016*; (*«mère ou père adoptif»*)

“agency” means a body corporate that is approved by the minister pursuant to section 37; (*«agence»*)

“agency adoption” means an adoption in which an agency has placed a child for adoption; (*«adoption institutionnelle»*)

“applicant” includes joint applicants where a child is placed with more than one person; (*«demandeur»*)

“birth father” means:

- (a) in the case of a child who has not been previously adopted:
 - (i) the biological father of the child;
 - (ii) a man who has access to or custody of the child by order of a court having jurisdiction over the matter or by agreement; or
 - (iii) a person who has been declared by the court to be the father of the child pursuant to Part VI of *The Children’s Law Act, 1997*; or
- (b) 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; (*« père de sang »*)

“birth mother” means:

- (a) in the case of a child who has not been previously adopted:
 - (i) the biological mother of the child;
 - (ii) a woman who has access to or custody of the child by order of a court having jurisdiction over the matter or by agreement; or
 - (iii) a person who has been declared by the court to be the mother of the child pursuant to Part VI of *The Children’s Law Act, 1997*; or

(b) 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; (« *mère de sang* »)

“birth parent” means:

- (a) a birth mother; or
- (b) a birth father; (« *mère ou père de sang* »)

“child” means a person who:

- (a) is under 18 years of age; and
- (b) has never been married; (« *enfant* »)

“court” means the Court of Queen’s Bench; (« *tribunal* »)

“director” means a person appointed pursuant to section 38 and, in the absence of any appointment, the minister; (« *directeur* »)

“former Act” means:

- (a) *The Adoption Act*;
- (b) *The Family Services Act*;
- (c) *The Child Welfare Act*;
- (d) *The Adoption of Children Act, 1922*; (« *loi antérieure* »)

“foster home” means a foster home approved pursuant to *The Child and Family Services Act* or *The Family Services Act* for the care of children; (« *foyer nourricier* »)

“independent adoption” means an adoption in which the child is placed for adoption by a birth parent; (« *adoption indépendante* »)

“minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned; (« *minister* »)

“ministry” means the ministry over which the minister presides; (« *ministère* »)

“permanent ward” means a child who has been permanently committed:

- (a) to the minister pursuant to *The Child and Family Services Act*, *The Family Services Act* or *The Child Welfare Act*, by court order;
- (b) to the minister pursuant to *The Child and Family Services Act*, *The Family Services Act* or *The Child Welfare Act*, by voluntary committal; or
- (c) to a child welfare authority of another jurisdiction, if the minister accepts the responsibility pursuant to this Act, any former Act or *The Child and Family Services Act*, for the custody or guardianship of the child; (« *pupille permanent* »)

“**prescribed**” means prescribed in the regulations; (*«prescrit»* ou *«réglementaire»*)

“**registrar**” means the local registrar of the court or the registrar of the Court of Appeal; (*«registraire»*)

“**spouse**” means the legally married spouse of a person or a person with whom that person is cohabiting as spouses; (*«conjoint»*)

“**status Indian**” means:

- (a) a registered Indian pursuant to the *Indian Act* (Canada); or
- (b) a person entitled to be registered as an Indian pursuant to the *Indian Act* (Canada); (*«statut d’Indien»*)

“**step-parent adoption**” means an adoption pursuant to section 23; (*«adoption d’un enfant de conjoint»*)

“**transfer of guardianship**” means the transfer of guardianship to an agency pursuant to section 11; (*«transfert de la tutelle»*)

“**voluntary committal**” means a voluntary committal pursuant to any former Act or *The Child and Family Services Act* or any other previous similar Act. (*«placement volontaire»*)

1998, c.A-5.2, s.2; 2001, c.51, s.2; 2004, c.4, s.3;
2014, c.11, s.2; 2016, c9, s.3.

Determination of the child’s best interests

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

- (a) the child’s mental, emotional, physical and educational needs, and the care or treatment to meet those needs;
- (b) the child’s cultural and spiritual heritage and upbringing;
- (c) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;
- (d) if practicable, the child’s wishes, having regard to the child’s age and the level of the child’s development;
- (e) the importance of continuity in the child’s care and the possible effect on the child of disruption of that continuity;
- (f) the effect on the child of making or of not making an order;
- (g) in the case of a step-parent adoption, the effect an order may have on the relationship, if any, the child has or may have with the parent who is not the spouse of the applicant;
- (h) any other fact or circumstance that the person or the court considers appropriate.

2016, c9, s.4.

PART II
Consents

Consent to adoption and transfer of guardianship

4(1) Subject to section 5, an order of adoption of a child pursuant to section 16 or 23 shall not be made unless:

- (a) the application for an order of adoption includes the consent to adoption, in the prescribed form, of:
 - (i) subject to subclauses (ii), (iii) and (v):
 - (A) the birth mother of the child; and
 - (B) the birth father of the child;
 - (ii) in the case of a permanent ward, the minister or the director acting on behalf of the minister;
 - (iii) in the case of a child with respect to whom guardianship has been transferred to or vested in an agency, 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) in the case of a child whose guardianship is vested in:
 - (A) a minister or other official of a government of a jurisdiction other than Saskatchewan; or
 - (B) another child and family services agency outside Saskatchewan;

the 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 prescribed form; and
 - (c) except in the case of a permanent ward under 12 years of age, 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 child is to be at least 72 hours old prior to a consent to adoption or transfer of guardianship being made.
- (3) **Repealed.** 2004, c.4, s.4.
- (4) Every consent to adoption and every transfer of guardianship is to be accompanied by:
- (a) 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

ADOPTION

c. A-5.2

- (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;
 - (b) in the case of a consent executed by a child who is the subject of the consent:
 - (i) an affidavit of execution;
 - (ii) a certificate of independent advice that is substantially in the form prescribed in the regulations and completed by:
 - (A) a lawyer other than a lawyer acting for the adoptive parents; or
 - (B) if the child is a permanent ward, a lawyer other than a lawyer acting for the minister;
 - (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 in the prescribed form 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 subclause (4)(b)(ii) or (c)(ii), the director shall appoint a person for a particular geographic area of Saskatchewan who may complete the certificate.
- (6) 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) 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 7 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, on request, the birth parent has the right to be informed by the director or agency, as the case may be, whether the child has been adopted or placed for adoption.

c. A-5.2

ADOPTION

(8) 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 proof, in the absence of evidence to the contrary, that it was so completed.

(9) Failure to comply with the requirements of subsection (6) or (7) does not, of itself, render a consent to adoption or transfer of guardianship invalid.

(10) A consent to adoption validly executed in another jurisdiction is deemed to have been executed pursuant to this Act.

(11) 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 as if that person were 18 years of age.

(12) 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 16.

1998, c.A-5.2, s.4; 2004, c.4, s.4; 2016, c9, s.5.

Dispensing with consent

5(1) Subject to subsections (2.1), (2.2) and (3) and sections 6 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 72 hours old.

(2.1) Subject to subsection (2.2), notice of an application pursuant to subsection (1) must be given to the director and to each person who is or may be a birth parent of the child.

(2.2) The court may, on an *ex parte* application, dispense with the requirement to give notice to a person who is or may be a birth parent of the child if the court is satisfied that dispensing with that requirement:

- (a) is necessary to protect the mental or physical health or safety of a person;
- (b) is in the best interests of the child; or
- (c) is necessary in the circumstances of the case.

(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.

(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.

1998, c.A-5.2, s.5; 2004, c.4, s.5.

ADOPTION

c. A-5.2

Minister's consent required

6 A court shall not dispense with the consent of the minister or the director required pursuant to subclause 4(1)(a)(ii).

1998, c.A-5.2, s.6.

Revocation of consent or transfer of guardianship

7(1) Subject to subsections (2) and (5), a consent to adoption or transfer of guardianship may not be revoked.

(2) Subject to subsection (5), a consent to adoption or transfer of guardianship of the child may be revoked by the person who made it by delivering to the director a written notice of revocation:

(a) at any time within 21 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 prior to the child being placed for adoption pursuant to section 14.

(3) In the case of an agency adoption, the court shall make an order for interim custody of the child 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 and one of the birth parents makes an application for interim custody.

(4) In the case of an agency adoption where no application is made pursuant to subsection (3) by a birth parent, the agency shall make an application pursuant to section 6 of *The Children's Law Act, 1997* as soon as is practicable.

(5) 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.

(6) Where a birth parent revokes a consent or transfer of guardianship pursuant to subsection (2), the director shall inform the agency and, where practicable, the other birth parent of the revocation.

1998, c.A-5.2, s.7; 2016, c.9, s.6.

PART III

Placement for Adoption**Placement of permanent ward**

8(1) A resident of Saskatchewan who wishes to have a permanent ward placed in his or her home for the purpose of adopting the permanent ward shall apply, in writing, to the director.

(2) The director, on being satisfied that the applicant is suitable and that it is in the best interests of the permanent ward to do so, may:

(a) give responsibility for the care and supervision of the permanent ward to the applicant mentioned in subsection (1); or

(b) subject to section 14, place the permanent ward with the applicant mentioned in subsection (1) for the purpose of adoption.

c. A-5.2

ADOPTION

- (3) **Repealed.** 2004, c.4, s.6.
- (4) The director shall:
- (a) prepare a report for the use of the court in every case where the director places a permanent 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.
- (5) Subject to subsection (6), the director shall provide a copy of the report prepared pursuant to subsection (4) to the applicant mentioned in subsection (1) and to the birth parents on their written requests, if those written requests are made prior to the order of adoption.
- (6) Unless the director has received a written acknowledgement from the birth parents and the applicant mentioned in subsection (1) stating that the identities of the birth parents and the applicant are known to each other, the director shall, when providing a copy of a report pursuant to subsection (5), 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 parents or the applicant to each other.
- (7) The director may, at the request of and on behalf of an applicant mentioned in subsection (1), submit the materials for an application for adoption to the court.

1998, c.A-5.2, s.8; 2004, c.4, s.6; 2016, c.9, s.7.

Assisted adoption

- 9(1) The minister may provide financial assistance with respect to a permanent ward by way of grant or other similar means in accordance with the regulations if, in the opinion of the minister, financial assistance is required by reason of:
- (a) the special needs of the permanent ward; or
 - (b) the special circumstances of the adoption of the permanent 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.

1998, c.A-5.2, s.9; 2016, c.9, s.8.

Placement by agency

- 10(1) A resident of Saskatchewan who wishes to have a child placed in his or her home for the purpose of adopting the child shall apply, in writing, to an agency.
- (2) 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 the applicant mentioned in subsection (1); or
 - (b) subject to section 14, place the child with the applicant mentioned in subsection (1) for the purpose of adoption.

ADOPTION

c. A-5.2

- (3) 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 (1) 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.
- (4) Subject to subsection (5), an agency shall:
- (a) prepare 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 (1) and to the birth parents, when requested, in writing, if the written request is made prior to the order of adoption.
- (5) Unless the agency has received a written acknowledgement from the birth parents and the applicant mentioned in subsection (1) stating that the identities of the applicant and the birth parents are known to each other, the agency shall, when providing a copy of a report pursuant to subsection (4), 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 parents and the applicant to each other.
- (6) 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 (1).

1998, c.A-5.2, s.10.

Transfer of guardianship

- 11(1) Where a birth parent or 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 prescribed form.
- (2) Subject to subsection 5(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 must also be filed.
- (4) Where, pursuant to subsection 5(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 after a birth parent signs the document.
- (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.

c. A-5.2

ADOPTION

(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 committed as a permanent ward as if an order had been made pursuant to *The Child and Family Services Act*; or
- (b) give directions as to the custody of the child.

(8) An agency that applies pursuant to subsection (6) shall serve a copy of the application at least 15 days prior to making the application on:

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

(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 16(10):

- (a) the agency shall notify the director within 10 days after the 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 after the 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 subclause (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.

1998, c.A-5.2, s.11; 2016, c9, s.9.

Foster homes

12 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.

1998, c.A-5.2, s.12.

ADOPTION

c. A-5.2

Independent placement

13(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.

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

(3) 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.

(4) On the request of an applicant mentioned in subsection (3), the director may submit the materials for the application to the court on behalf of the applicant.

(5) 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 the court considers appropriate to satisfy the court 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 set out in this Act or that may be prescribed, be filed with the court; and

(ii) the applicant appear before the court.

(6) 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 the court considers appropriate in the circumstances.

1998, c.A-5.2, s.13.

Proof of placement

14(1) Subject to subsection (3), when a child is deemed to be placed for adoption pursuant to subsections (4) and (5), the director or an agency shall execute a certificate of placement in the prescribed form.

(2) A certificate of placement is admissible in evidence as proof, in the absence of evidence to the contrary, 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 step-parent adoption.

(4) Subject to subsection (5), a child is deemed to be placed for adoption when:

(a) 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 and the time for revocation by each birth parent has expired with respect to:

c. A-5.2

ADOPTION

- (i) the consent to adoption or transfer of guardianship, as the case may be; or
- (ii) the voluntary committal, pursuant to clause 50(1)(a) of *The Child and Family Services Act*;
- (b) the court has dispensed with the requirement of the consent to adoption, transfer of guardianship or with the signature to the voluntary committal and:
 - (i) 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
 - (ii) an order mentioned in clause (a) has been appealed and the appeal has been discontinued or dismissed; or
- (c) the child has become a permanent ward as a result of a court order and:
 - (i) the time for appealing the order has expired; or
 - (ii) the order has been appealed and the appeal has been discontinued or dismissed.
- (5) A child shall be deemed to have been placed for adoption pursuant to subsection (4) only where:
 - (a) the child begins to reside with the prospective adoptive parent; or
 - (b) the care and supervision of the child has been given to and accepted by the prospective adoptive parent, but the child is not yet residing with the prospective adoptive parent.
- (6) Where notice of an application for a declaration of paternity pursuant to Part VI of *The Children's Law Act, 1997* 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.

1998, c.A-5.2, s.14; 2016, c9, s.10.

Termination of prior rights

15(1) Subject to subsection (3) and subsection 23(8):

- (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.

ADOPTION

c. A-5.2

- (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 step-parent 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 the court orders otherwise.
- (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, 1997*.

1998, c.A-5.2, s.15.

PART IV
Procedure

Adoption order

- 16(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 apply unless the person is a resident of Saskatchewan.
- (4) The court may name the surviving applicant and the deceased applicant as the adoptive parents of the child 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.
- (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.

c. A-5.2

ADOPTION

- (7) An applicant for adoption shall file:
 - (a) the prescribed material; and
 - (b) any additional material that the court requires in the court's rules or that the judge may request.
- (8) Unless the court or the director has extended the time for applying, every applicant for adoption of a child who was placed for adoption pursuant to section 8, 10, 13 or 27 shall apply to court within one year of the date on which the child was placed for adoption.
- (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) The child shall be returned to the director or the agency, as the case may be, if:
 - (a) an application for adoption of a child who was placed for adoption pursuant to section 8 or 10 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).
- (11) If an application for adoption of a child who was placed for adoption pursuant to section 13 is not made within one year of the date on which the child was placed for adoption and no extension of time has been granted pursuant to subsection (8), the consent to adoption pursuant to section 4 expires and an order of adoption shall not be made unless another consent to adoption pursuant to section 4 is obtained or the court dispenses with the requirement of consent to adoption pursuant to section 5.
- (12) An application for adoption is:
 - (a) to be heard by a judge in the judge's chambers; and
 - (b) to be held without the presence of the public.
- (13) Every application for adoption must contain a statement of all fees, expenses and disbursements paid in connection with the adoption.
- (14) On an application for adoption, the court may do all or any of the following:
 - (a) if the child is seven years of age or older, require that:
 - (i) the child be brought before the court and interview the child; or
 - (ii) another person interview the child in accordance with the regulations 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.
- (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.

ADOPTION

c. A-5.2

(16) If the director is not making an application on behalf of an applicant, the applicant shall serve the application and any supporting materials on the director:

- (a) at least 30 days before filing the application with the court; or
- (b) within any period the director may allow.

(17) **Repealed.** 2016, c.9, s.11.

(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.

1998, c.A-5.2, s.16; 2004, c.4, s.7; 2016, c.9, s.11.

17 Repealed. 2004, c.4., s.8.

18 Repealed. 2004, c.4., s.8.

19 Repealed. 2004, c.4., s.8.

20 Repealed. 2004, c.4., s.8.

21 Repealed. 2004, c.4., s.8.

22 Repealed. 2004, c.4., s.8.

PART V Other Adoptions

Step-parent 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.

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

(4) 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 other period that the court may allow.

(5) Unless the court otherwise orders, on an application pursuant to this section, the director is not required to prepare or file a report.

c. A-5.2

ADOPTION

- (6) 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.
- (7) A birth parent who is served pursuant to subsection (2) may apply to the court for an order granting access to the child by the birth parent.
- (8) On an application pursuant to subsection (7), the court may, by order, grant access if it is satisfied that it would be in the child's best interests to do so.
- (9) On an application made by any party to an application pursuant to subsection (7), the court may alter, vary or discharge an order made pursuant to subsection (8) if the court is satisfied that there has been a material change in circumstances since the making of the order.
- (10) 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 birth 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 birth parent mentioned in that clause be served with a notice to appear before it.
- (11) The court shall, before adjourning an application pursuant to subsection (10), consider the effect, if any, that the delay caused by an adjournment may have on the child.
- (12) Where a judge has adjourned an application pursuant to subsection (10), the court may dispense with that birth parent's consent if it is in the child's best interests to do so and if the birth parent served:
- (a) does not appear at the time appointed; or
 - (b) on appearing, does not show sufficient cause why the order of adoption should not be made.
- (13) Notwithstanding subsection 4(4), neither a certificate of counselling nor a certificate of independent advice is required in the case of the consent of a birth parent who is the spouse of the applicant.
- (14) Notwithstanding subsection 4(4), in the case of the birth parent who is not the spouse of the applicant, only a certificate of independent advice is required.
- (15) Subsections 16(1), (6), (7) and (12) to (18) apply, with any necessary modification, to an application made pursuant to this section.

1998, c.A-5.2, s.23.

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.

ADOPTION

c. A-5.2

- (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 3 to 7, 27, 30 and 34 do not apply to an adoption pursuant to this section.
- (5) In applying any provision of this Act in relation to an adoption of an adult pursuant to this section, a reference to the person being adopted as a 'child' is to be read as if the provision referred to the person being adopted as a "person".

1998, c.A-5.2, s.24; 2004, c.4, s.9; 2016, c9, s.12.

Interprovincial placements

- 25(1)** A person who is not a resident of Saskatchewan and who removes a child from 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 ordinarily resident in another Canadian jurisdiction and is 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 of officials to contact in the other Canadian 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 Canadian jurisdiction.
- (5) This section does not apply to a step-parent 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.

1998, c.A-5.2, s.25.

c. A-5.2

ADOPTION

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 16, 23 or 24 has the same effect in Saskatchewan as an order of adoption granted pursuant to the provisions of this Act.

1998, c.A-5.2, 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.A-5.2, s.27.

Request for information re adoptions from non-Convention countries

27.1(1) For the purposes of providing a provincial statement as described in the regulations made pursuant to subsection 12(1) of the *Immigration and Refugee Protection Act* (Canada) with respect to an adoption or intended adoption according to the law of a country that is not a signatory to the *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*, the minister may request the information set out in subsection (2).

(2) If the minister makes a request for information pursuant to subsection (1), the sponsor of the child that is adopted or intended to be adopted shall provide to the minister:

- (a) evidence satisfactory to the minister that the persons, institutions and authorities whose consent is required by law in the child's country of origin have been advised with respect to the effects of their consent, including the termination of parental rights, and that the consent has been provided freely, not induced by payment or compensation, nor withdrawn;

ADOPTION

c. A-5.2

- (b) the child's birth registration or evidence satisfactory to the minister of the facts relating to the child's birth;
- (c) evidence satisfactory to the minister of the circumstances of the child and the reasons for adoption;
- (d) a declaration by the public authority, body or person in the child's country of origin who is responsible for administering adoptions to the effect that the child was adopted according to the laws of that country or the laws of the country where the adoption occurred;
- (e) a certified copy of the adoption order granted in the child's country of origin; and
- (f) any other materials or information that the minister may require.

2016, c9, s.13.

28 Repealed. 2016, c9, s.14.

PART VI
General

Act prevails

29(1) Subject to subsection (2), 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.

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

1998, c.A-5.2, s.29; 2016, c9, s.15.

Effect of order

29.1(1) For all purposes, including rights to succession of property, when an order of adoption is made pursuant to section 16, 23 or 24:

- (a) the adopted person is the child of the adoptive parent as if the person had been born to that parent; and
- (b) the adoptive parent is the parent of the adopted person as if the person 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 pursuant to section 16, 23 or 24:

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

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

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

- (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, when an order of adoption is made pursuant to section 16, 23 or 24, the relationship between the adopted person 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 person.
- (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 pursuant to section 16, 23 or 24 before the marriage, the relationship between them is one that, under the laws that bar marriages between persons having certain familial relationships, would be prohibited.
- (8) Subject to subsection (3), if the person 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 person.
- (9) Nothing in this section or in any other Act or law affects an interest in property that is vested in a person before the adoption of the person.
- (10) Notwithstanding that an adopted person ceases to be the child of his or her birth parent pursuant to subsection (2), a testamentary disposition that would have benefited an adopted person if the adoption had not occurred is a valid disposition to the adopted person if it can be ascertained from the will that the intention of the testator was to benefit the person individually or as a member of a class of persons.
- (11) A person adopted in accordance with a former Act is deemed to have been adopted in accordance with this Act.
- (12) Notwithstanding any other Act or law but subject to subsection (8) and section 29.6, an order of adoption made pursuant to section 16, 23 or 24, 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.

ADOPTION

c. A-5.2

Name of adopted person

29.2(1) Subject to subsection (2), when an order of adoption is made pursuant to section 16, 23 or 24:

(a) the surname of the adoptive parent or any other allowable surname for a person pursuant to *The Vital Statistics Act, 2009* becomes the surname of the adopted person unless the court orders that the adopted person retain the surname under which the adopted person's birth was registered or that the adopted person was using before the adoption; and

(b) the court may change the given name or names of the adopted person if the adoptive parent requests it, to any allowable given name or names pursuant to *The Vital Statistics Act, 2009*.

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

2004, c.4, s.10; 2009, c.V-7.21, s.115.

Duties of registrar

29.3(1) Not more than 10 days after a fiat or decision to grant an order of adoption pursuant to section 16, 23 or 24 is made, or a fiat or decision refusing to grant an order of adoption pursuant to section 16, 23 or 24 is made, the registrar shall send notice of the fiat or decision, in the prescribed form, by ordinary mail to:

- (a) each applicant pursuant to section 16, 23 or 24;
- (b) the director; and
- (c) the agency, if any, that placed the person for adoption.

(2) The registrar shall not issue an order of adoption pursuant to section 16, 23 or 24 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
- (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 pursuant to section 16, 23 or 24, the registrar shall send a certified copy of the order of adoption by ordinary mail to:

- (a) each adoptive parent;
- (b) the Registrar of Vital Statistics, together with any other information that the Registrar of Vital Statistics requires to carry out the requirements of *The Vital Statistics Act, 2009*;
- (c) if the adopted person is a status Indian, the Registrar within the meaning of 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 person for adoption.

c. A-5.2

ADOPTION

(4) The Registrar of Vital Statistics shall provide the Registrar, within the meaning of the *Indian Act* (Canada), with a copy of the registration of live birth of the person where:

- (a) a person adopted pursuant to this Act or any former Act is a status Indian; and
- (b) the person or the adoptive parent of the person requests the Registrar of Vital Statistics to do so.

(5) **Repealed.** 2016, c9, s.16.

2004, c.4, s.10; 2009, c.V-7.21, s.115; 2016, c9, s.16.

Confidentiality

29.4(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.

(3) The director, every agency and every person who provides services pursuant to this Act, administers this Act or any provision of this Act or administered any former Act:

- (a) shall preserve the confidentiality of:
 - (i) all records in the possession of the director, agency or person that relate to an adoption or to anything done pursuant to this Act or any former Act; and
 - (ii) all information that comes to the knowledge of the director, agency or person in the course of doing anything pursuant to this Act; and
- (b) unless otherwise provided in this Act or the regulations, shall not provide access to those records or communicate that information to any person except:
 - (i) as required or permitted in connection with:
 - (A) the administration of this Act or the regulations; or
 - (B) the provision of services pursuant to this Act or the regulations;
 - (ii) as required or permitted in proceedings pursuant to this Act or the regulations; or
 - (iii) with the written consent of the minister.

2004, c.4, s.10.

Non-compellability

29.5 The minister, officers and employees of the ministry, 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 in the performance of their duties pursuant to this Act or any former Act; or
 - (ii) knowledge or information acquired by them in the performance of their duties pursuant to this Act or any former Act; and
- (b) shall not be required to produce any written statement mentioned in subclause (a)(i) at a trial, hearing or other proceeding.

2004, c.4, s.10; 2014, c.11, s.2.

Appeals

29.6(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 mentioned in section 16, 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 5 or the refusal to make an order pursuant to section 5 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 5, 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) a refusal to make an order recognizing a simple adoption order pursuant to section 28, as that section existed on the day before the coming into force of section 13 of *The Adoption Amendment Act, 2016*;
 - (b) an order respecting an application for termination of access pursuant to subsection 15(3);
 - (c) an order pursuant to subsection 23(8).
- (4) A person entitled to appeal pursuant to this section shall serve and file the notice of the appeal within 30 days after 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 29.3(2).
- (5) Notwithstanding any other Act or law, no extension of the time for the commencement of an appeal shall be granted.

c. A-5.2

ADOPTION

- (6) The Court of Appeal may receive further evidence on questions of fact by:
- (a) oral examination before the Court of Appeal;
 - (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 the Court of Appeal's 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.
- (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 to whom the Court of Appeal directs that the order should be sent.
- (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 are in the discretion of the Court of Appeal.
- (12) The Court of Appeal shall not award costs against the minister or any employee of the ministry.
- (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 after the date of the order or decision appealed from.
- (15) Notwithstanding any other Act or law, the Court of Appeal shall not grant an extension of the time to make an appeal pursuant to subsection (14).

ADOPTION

c. A-5.2

Post-adoption registry

30(1) Pursuant to the prescribed requirements, the minister shall:

- (a) maintain a registry with respect to adoption where any information related to adoptions is to be recorded; and
 - (b) provide any post-adoption services.
- (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.

1998, c.A-5.2, s.30.

Birth parent request

31 On receiving a written request, the director or agency, as the case may be, shall inform a birth parent whether or not the child of the birth parent has been adopted or placed for adoption.

1998, c.A-5.2, s.31.

Advertisements - restrictions

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.

1998, c.A-5.2, s.32.

No payment or reward

33(1) Repealed. 2016, c9, s.18.

(2) Except where otherwise permitted pursuant to this Act or the regulations, no person shall give or receive any payment or reward, whether directly or indirectly, for any purpose related to the adoption of a child.

(3) Except where otherwise permitted pursuant to this Act or the regulations, no person shall agree to give or receive any payment or reward, whether directly or indirectly, for any purpose related to the adoption of a child.

1998, c.A-5.2, s.33; 2016, c9, s.18.

c. A-5.2

ADOPTION

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 for the purposes of adoption; or
- (b) placing or arranging the placement of children for the purposes of adoption.

1998, c.A-5.2, s.34.

Offences and penalties

35(1) A person who contravenes any provision of section 32, 33 or 34 or any prescribed provision of the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000, imprisonment for not more than one year or both.

(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.

1998, c.A-5.2, s.35; 2016, c9, s.19.

Minister may apply for compliance order

35.1(1) The minister may apply to the court for all or any of the following:

- (a) an order compelling a person to comply with this Act, the regulations or a decision or order issued pursuant to this Act or the regulations;
 - (b) an order enjoining any person from proceeding contrary to this Act, the regulations or a decision or order issued pursuant to this Act or the regulations.
- (2) On an application pursuant to this section, the court may make the order requested or any other order that the court considers appropriate on any terms and conditions that the court considers appropriate.
- (3) The minister may apply for an order pursuant to subsection (1) regardless of whether a decision or order pursuant to this Act or the regulations has been issued with respect to the matter.

2016, c9, s.20.

Immunity

36 No action lies or shall be commenced or instituted against the minister, the ministry, a peace officer or any officer or employee of the ministry or agent of the minister, where the minister, ministry, 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 responsibility imposed by this Act or the regulations.

1998, c.A-5.2, s.36; 2014, c.11, s.2.

Agencies

37 For the purposes of this Act, the minister may, in the minister's discretion, approve as an agency to provide services respecting the adoption of children a body corporate that:

- (a) is incorporated, continued or registered pursuant to *The Non-profit Corporations Act, 1995*; and
- (b) in the minister's opinion, has complied with the prescribed requirements.

1998, c.A-5.2, s.37.

Director

38(1) 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 responsibilities conferred or imposed on the director by this Act and that are specified in the appointment;
- (b) to exercise the powers and fulfil the responsibilities described in clause (a) for all or any part of Saskatchewan that is specified in the appointment.

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

1998, c.A-5.2, s.38.

Delegation by director

39 The director may delegate to any employee of the ministry the responsibility to perform, in the absence of the director, any of those responsibilities or to exercise any of those powers that the director is authorized by section 38 to perform or exercise.

1998, c.A-5.2, s.39; 2014, c.11, s.2.

Counselling

40(1) The minister may provide for the provision of counselling or other services related to adoption.

(2) The minister may enter into agreements for the provision of counselling or other services related to adoption.

1998, c.A-5.2, s.40.

Review respecting decisions

41(1) Any person may request that a decision be reviewed by the minister, if that person is aggrieved by that decision made by:

- (a) the director pursuant to this Act or the regulations; or
- (b) any person acting on behalf of the minister or the director pursuant to this Act or the regulations.

c. A-5.2

ADOPTION

(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 is requested.

(3) **Repealed.** 2016, c9, s.21.

(4) On completing a review pursuant to subsection (1), the minister may confirm, reverse or vary the decision with respect to which the review was requested.

1998, c.A-5.2, s.41; 2016, c9, s.21.

Regulations – minister

42 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 fulfil the purposes of section 27.

1998, c.A-5.2, s.42; 2016, c9, s.22.

Regulations – Lieutenant Governor in Council

43 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word used in this Act but not defined in this Act;

(b) prescribing the materials to be filed on any application made pursuant to this Act;

(c) prescribing any forms required for this Act or the regulations;

(d) governing the provision of financial assistance pursuant to section 9;

(e) prescribing the form for a transfer of guardianship pursuant to section 11;

(e.1) prescribing the procedure to be followed if, pursuant to subclause 16(14)(a)(ii), a person other than the court interviews a child who is seven years of age or older;

(f) prescribing the procedure to be followed on an application pursuant to section 24;

(g) governing the operation of the registry pursuant to section 30 and the provision of post-adoption services pursuant to clause 30(1)(b);

(g.1) governing the confidentiality of information and records and the release of information pursuant to clause 30(2)(b) or otherwise;

(g.2) prescribing provisions of the regulations for the purposes of section 35;

ADOPTION

c. A-5.2

- (h) 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;
- (i) prescribing the contents of any report or notice required pursuant to this Act;
- (j) 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;
- (k) prescribing terms and conditions of licences;
- (l) governing the suspension and cancellation of licences;
- (m) 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;
- (n) governing the access of any person or category of persons to any records made or kept pursuant to this Act or the regulations;
- (o) prescribing and requiring compliance with conditions governing the confidentiality of records of:
 - (i) agencies approved by the minister pursuant to this Act; or
 - (ii) persons who provide services pursuant to this Act;
- (p) prescribing any other matter or thing required or authorized to be prescribed by this Act;
- (q) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1998, c.A-5.2, s.43; 2004, c.4, s.11; 2016, c.9, s.23.

Service of documents

- 44(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 to be served personally, unless otherwise provided for in this Act, the regulations or the rules of the court.
- (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) the minister 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.

1998, c.A-5.2, s.44.

PART VII
Repeal, Transitional and Coming into Force

S.S. 1989-90, c.A-5.1 repealed

45 *The Adoption Act* is repealed.

1998, c.A-5.2, s.45.

Transitional

46(1) A consent to adoption validly obtained pursuant to any former Act is a valid consent to adoption for the purposes of this Act.

(2) An order that is in force on the day before this Act comes into force and that was made pursuant to any former Act continues in force until it is varied pursuant to this Act.

(3) Unless the court orders otherwise, an application to the court for an order to recognize a simple adoption order that is commenced in accordance with section 28, as that section existed on the day before the coming into force of section 13 of *The Adoption Amendment Act, 2016*, is continued and is to be completed according to the law in force on the day before section 13 of *The Adoption Amendment Act, 2016* comes into force.

1998, c.A-5.2, s.46; 2016, c9, s.24.

Coming into force

47 This Act comes into force on proclamation.

1998, c.A-5.2, s.47.