

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Justice, Finland

Government Decree on Adoption

(202/2012)

Chapter 1

Adoption counselling

Section 1

Receipt of consents

The consent to adoption given by a parent and by a person specified in section 13 of the Adoption Act (22/2012) shall be personally received by the official of the municipal social welfare organ referred to in section 14, subsection 1 of the Adoption Act who provides adoption counselling in the municipality or the competent employee of an adoption agency .

Section 2

Special provisions on prospective adopters habitually resident abroad

If the prospective adopter is habitually resident in a foreign state, the provider of adoption counselling may issue a statement referred to in Article 12 of the Convention of Finland, Denmark, Iceland, Norway and Sweden on Rules of Private International Law relating to Marriage, Adoption and Guardianship (Finnish Treaty Series 20/1931) only if the adopter has been granted permission for adoption.

If the prospective adopter is habitually resident in a foreign state which is a contracting state of the Convention on the protection of children and cooperation in respect of intercountry adoption (Finnish Treaty Series 29/1997), hereinafter the *Hague Convention*, the provider of adoption counselling may decide on the placement of a child with the prospective adopter or issue a statement referred to in subsection 1 only if it, in addition to the permission for adoption, has been presented with a certificate indicating that both the Finnish service provider and the foreign service provider have agreed that the adoption may proceed.

Section 3

Report on provision of adoption counselling

The report referred to in section 30, subsection 1 of the Adoption Act shall state whether adoption counselling has been provided in accordance with chapter 4 of the Adoption Act. The report shall also indicate the circumstances that according to law are the conditions for granting permission for adoption and for granting of adoption.

The report shall, to the extent possible and necessary, include in particular the following information:

- 1) the identity of the prospective adopter;
- 2) why the prospective adopter wishes to adopt the child;
- 3) the background, family relations and other social environment of the prospective adopter, and his or her financial situation;
- 4) the state of health of the prospective adopter and his or her family, and factors having an impact on this.

If adoption counselling has been provided for the adoption of a specific child, the report shall, to the extent possible and necessary, include in particular the following information:

- 1) the identity of the child;
- 2) why the child can be adopted;
- 3) the background, family relations and other social environment of the child;
- 4) the state of health of the child and his or her family and factors having an impact on this;
- 5) the special needs of the child.

When necessary, the report shall include such information about the persons specified in section 13 of the Adoption Act which is required for granting permission for adoption or for granting of adoption.

The report shall include an assessment of the prospective adopter's eligibility and suitability to adopt a child and, when necessary, specifically his or her eligibility and suitability to adopt a child from a foreign state. If the adoption counselling that has been provided has not concerned a specific child, the report shall also include an assessment of the age and other characteristics of the child suitable for adoption.

Section 4

Submission of the report

The provider of adoption counselling shall submit the report referred to in section 3 directly to the competent service provider, if the report has been drawn up for the purpose of applying for permission for adoption and the prospective adopter is provided with intercountry adoption service. If the prospective adopter is not provided with intercountry adoption service, the report shall be submitted directly to the Adoption Board, as soon as the provider of adoption counselling has been notified that an application for permission for adoption has been initiated in the Board.

A report drawn up for the purpose of submitting a petition for granting of an adoption shall be submitted to the prospective adopter.

Section 5

Report on a child to be adopted from Finland to foreign state

The report referred to in section 30, subsection 2 of the Adoption Act shall include the information referred to in section 3, subsection 3 of this Decree about the child.

If a service provider takes care of providing the child with a prospective adopter, the provider of adoption counselling shall submit the report directly to the service provider in question. In other cases, the report shall be submitted to the prospective adopter.

Chapter 2

Intercountry adoption service

Section 6

Function of the service provider

The function of the service provider referred to in section 32, subsection 1 of the Adoption Act is to

- 1) cooperate with foreign service providers for the purposes provided in section 33 of the Adoption Act;
- 2) give information on the conditions, procedure and costs for intercountry adoption to a person intending to adopt a child under the age of 18 years who is habitually resident in a foreign state;

- 3) instruct the prospective adopter to request adoption counselling as provided in section 21 of the Adoption Act;
- 4) assist the prospective adopter in obtaining the certificates and other documents required for intercountry adoption and in having these documents translated, and take care of sending these documents to a foreign state;
- 5) grant the approvals referred to in Article 17(c) of the Hague Convention;
- 6) perform the tasks referred to in Article 17(b), Article 19 and Article 21(1) (b) and (c) of the Hague Convention;
- 7) assist in the measures relating to bringing the child to Finland;
- 8) assist the provider of adoption counselling in the measures referred to in section 24, subsection 2, paragraph 9 of the Adoption Act;
- 9) send follow-up reports on the placement of the child to the foreign service provider;
- 10) assist the provider of adoption counselling and the child welfare authority in the measures referred to in section 28 of the Adoption Act;
- 11) ensure that the prospective adopter without delay takes measures to have the adoption granted and, if the matter concerns an adoption governed by the Hague Convention, inform the adopter of the possibility to have the adoption certified as having been made in accordance with the Hague Convention;
- 12) forward the fees collected under section 35, subsection 1 of the Adoption Act from the adopter for the costs incurred in the case in Finland and to a foreign country, or, if certain fees cannot be paid through the service provider, inform the prospective adopter of the usual amount of these fees and assist him or her in paying them;
- 13) notify the foreign service provider and the Finnish Adoption Board of an adoption granted in Finland;
- 14) notify the Finnish Adoption Board of an adoption granted abroad and ensure that this is registered in the Population Information System.

A service provider may grant the approvals referred to in subsection 1, paragraph 5 only if the adopter has been granted permission for adoption.

Section 7

Certificate required for applying for permission for adoption

For the purpose of applying for permission for adoption, the service provider shall issue a certificate stating that the prospective adopter has been provided with intercountry adoption

service. A copy of the report on provision of adoption counselling referred to in section 3 shall be annexed to the certificate.

Section 8

Certificate required for certification of adoption

For the purpose of submitting a petition for the certification of adoption as referred to in section 77 of the Adoption Act, the service provider shall issue a certificate to the adoptive parents stating that the approvals referred to in Article 17(c) of the Hague Convention have been granted. The certificate shall indicate the adoptive parents and the adopted child, the date when the above mentioned approvals have been granted and which Finnish and foreign authorities have granted them.

Section 9

Fees charged by the service provider

When setting the fee charged under section 35, subsection 1 of the Adoption Act, any subsidy from the state, a municipality or the Finnish Slot Machine Association shall first be subtracted from the costs actually incurred by the service provider in the performance of the activities.

Section 10

Costs charged by the service provider

The costs referred to in section 35, subsection 1 of the Adoption Act are:

- 1) the charges and fees paid for the acquisition, translation, notarisation and delivery of the certificates and other documents necessary for the provision of intercountry adoption service and granting of adoption;
- 2) the charges and fees for judicial measures taken in a foreign country for the purposes of an adoption;
- 3) the charges and fees paid for the procurement, translation, notarisation and delivery of the adoption decision and other decisions and documents necessary in the matter;
- 4) the charges and fees for interpretation;
- 5) the charges, fees and travel expenses of the service provider's contact person abroad;
- 6) the fees for the measures taken by the foreign service provider;
- 7) the expenses incurred by the care and maintenance of the child to be adopted;

8) the travel expenses of the child, the prospective adopter or an escort and other travel expenses necessary in the matter;

9) other necessary expenses comparable to the costs referred to in paragraphs 1—8 above incurred by the adoption.

Chapter 3

Finnish Adoption Board

Section 11

Organisation of the Board

The Finnish Adoption Board consists of a plenary session, a section for international matters and a section for adoption permission matters

The Chairman and the Deputy Chairman of the Board are officials of the National Supervisory Authority for Welfare and Health with a relevant higher academic degree.

The Board may hear experts, obtain statements and acquire necessary reports.

Section 12

Composition of the sections and the plenary session

The Chairman of the section for international matters is the Chairman or the Deputy Chairman of the Board. The section shall have at least four other members. One of the members shall represent the Ministry for Foreign Affairs. In addition, the section shall include members with expertise in legal matters relating to international adoption, the practical inter-country adoption operation and child welfare.

The Chairman of the section for adoption permission matters is the Chairman or the Deputy Chairman of the Board. The section shall have at least four other members. The section shall include members with expertise in child welfare, adoption counselling, a child's growth and development as well as a member with medical expertise.

The Chairman of the plenary session is the Chairman of the Board, or, when the Chairman is prevented from attending to his or her duties, the Deputy Chairman of the Board. At a plenary

session, all members of the sections are present. In addition, a necessary number of members representing the authorities and organisations operating within the field of operation of the Adoption Board are appointed to attend the plenary session. If necessary, also other members may be appointed to attend the plenary session.

Section 13

Personnel of the Board

The National Supervisory Authority for Welfare and Health appoints one or more secretaries and other necessary personnel for the Board. The person appointed as the secretary of the Board shall have a relevant academic degree.

Section 14

Function of the section for international matters

The section for international matters shall

- 1) to the appropriate extent gather and maintain information about the legislation and practices concerning adoption and intercountry adoption service in foreign states and, on request, provide information about these to authorities and service providers;
- 2) monitor compliance with the Hague Convention in Finland and, when necessary, take measures to ensure compliance with the Convention;
- 3) cooperate with the central authorities or the bodies responsible for the duties of a central authority in foreign states that are contracting states in the Hague Convention in order to achieve the objects of the Convention and to exchange the information referred to in the Convention;
- 4) cooperate with the national authorities designated by the state parties in the European Convention on the Adoption of Children, concluded in Strasbourg on 27 November 2008, to exchange the information referred to in the Convention;
- 5) grant licences for the provision of intercountry adoption service and cancel licences that have been granted;
- 6) grant a Finnish service provider licence to cooperate with a foreign service provider and cancel licences that have been granted;
- 7) monitor the operation of the service providers and their cooperation with foreign service providers;
- 8) provide the reports referred to in section 78 of the Adoption Act and give the statements referred to in section 79 of the Adoption Act;

- 9) grant the approvals referred to in Article 17(c) of the Hague Convention and issue the certificate referred to in section 8 of this Decree in cases where a service provider has not been used;
- 10) perform the central authority functions under the Hague Convention, unless a certain function has been delegated to another body by law or government decree.

Section 15

Function of the section for adoption permission matters

The section for adoption permission matters considers matters relating to granting of permission for adoption and changing the conditions, extending the validity and cancellation of a granted permission. The section for adoption permission matters also considers the notifications concerning changes in the prospective adopter's circumstances.

Section 16

Quorum

The plenary session of the Board has a quorum when the Chairman or the Deputy Chairman and at least half of the other members or deputy members are present.

A section of the Board has a quorum when the Chairman or the Deputy Chairman and at least three of the other members or deputy members are present.

However, the section for adoption permission matters may issue a decision referred to in subsection 4 also in a composition consisting of the Chairman or the Deputy Chairman of the Board and a member or deputy member of the section with expertise in child welfare or adoption counselling (*restricted composition*). A matter may be considered in a restricted composition provided that it, with regard to the circumstances of the case and previous decisions of the Board, is evident how the matter should be decided.

In a restricted composition, the Board may

- 1) grant permission for adoption under section 40 or 41 of the Adoption Act;
- 2) extend the period of validity of a granted permission for adoption;
- 3) approve the replacement of a service provider with another service provider or decide on a minor change in the conditions of a granted permission for adoption;

4) decide that a notification concerning changes in the prospective adopter's circumstances does not give reason to cancel the permission for adoption or to change the conditions of the permission.

Section 17

Decision in a matter considered by the Adoption Board

The Adoption Board decides matters upon presentation of the secretary.

Decisions in the Board are made by a majority of the votes cast. In the event of a tie, the decision is made according to the Chairman's vote.

If the members of a restricted composition are unable to reach a unanimous decision, the matter is referred to a full composition.

Section 18

Certificate of permission for adoption

When permission for adoption has been granted under section 40 or 42 of the Adoption Act, the certificate shall indicate that

- 1) it has been determined that the prospective adopter is eligible and suited to adopt;
- 2) the prospective adopter has been provided with adoption counselling.

When permission for adoption has been granted under section 41 of the Adoption Act, the certificate shall indicate that

- 1) it has been determined that the prospective adopter is eligible and suited to adopt;
- 2) the prospective adopter has received adoption counselling and is provided with intercountry adoption service by the service provider referred to in the certificate.

When permission for adoption has been granted under section 43 of the Adoption Act, the certificate shall indicate that

- 1) a foreign authority or other foreign body has determined that the prospective adopter is eligible and suited to adopt;
- 2) the prospective adopter has been provided with necessary counselling in his or her state of habitual residence;

3) that the child according to the documentation presented by the prospective adopter is or will be authorised to enter and reside permanently in the prospective adopter's state of habitual residence.

The certificate shall also indicate the period of validity of the permission and if any special conditions or restrictions referred to in section 45 of the Adoption Act have been imposed on the adoption. When permission for adoption has been granted under section 42 or 43 of the Adoption Act, the certificate shall also indicate the child for whose adoption the permission has been granted.

The certificate may, on the request of the prospective adopter, be issued in English.

Section 19

Submission of the certificate

The Adoption Board shall submit a certificate

- 1) of permission for adoption granted under section 40 of the Adoption Act directly to the provider of adoption counselling;
- 2) of permission for adoption granted under 41 of the Adoption Act directly to the service provider providing the prospective adopter with intercountry adoption service;
- 3) of permission for adoption granted under section 42 or 43 of the Adoption Act to the prospective adopter.

Chapter 4

Miscellaneous provisions

Section 20

Documentation to be enclosed to a petition for granting of an adoption

In a matter concerning granting of adoption of a minor child, the prospective adopter shall submit to court documentation indicating that

- 1) the parties concerned have been provided with adoption counselling;
- 2) the prospective adopter has a valid permission for adoption, if the adoption according to section 39 of the Adoption Act requires permission.

If the prospective adopter is not habitually resident in Finland, he or she shall also submit documentation indicating that

- 1) it has been determined by a competent authority or other competent body of the state of his or her habitual residence that the prospective adopter is eligible and suited to adopt;
- 2) that the child is or will be authorised to enter and reside permanently in the prospective adopter's state of habitual residence, if the child's state of habitual residence is changed due to the adoption.

Section 21

Documentation to be enclosed with an application for a licence to operate an adoption agency

When applying for a license referred to in section 87, subsection 1 of the Adoption Act, the following documents shall be enclosed with the application:

- 1) the bylaws of the association, if the applicant is a registered association;
- 2) an account on the number of personnel, their education, experience and status in the activities of the provider of adoption counselling;
- 3) an annual plan and a budget;
- 4) if the service provider has provided adoption counselling by virtue of a license granted earlier, the annual report, financial statements and the auditor's report for the last completed financial year.
- 5) other necessary accounts.

Section 22

Documentation to be enclosed with an application for a licence to provide adoption service

When applying for a license referred to in section 87, subsection 2 of the Adoption Act, the following documents shall be enclosed with the application:

- 1) the bylaws of the association, if the applicant is a registered association;
- 2) an account on the number of personnel, their education, experience and status in the activities of the service provider;
- 3) an annual plan and a budget;

- 4) if the service provider has provided intercountry adoption counselling by virtue of a license granted earlier, the annual report, financial statements and the auditor's report for the last completed financial year.
- 5) an estimate of the total amount of fees and costs referred to in section 35, subsection 1 of the Adoption Act over the next license period, itemised by state and nature of cost; and
- 6) other necessary accounts.

Section 23

Notifications to the Permanent Bureau of the Hague Conference on Private International Law

When a service provider has been granted a licence referred to in section 87, subsection 2 of the Adoption Act to provide intercountry adoption services, the Adoption Board shall communicate the name and address of this service provider to the Permanent Bureau of the Hague Conference on Private International Law.

The Permanent Bureau shall also be notified if a licence referred to in subsection 1 has been cancelled or if the period of validity of the licence for some other reason has expired.

Section 24

Entry into force

This Decree enters into force on 1 July 2012.

Measures necessary for the implementation of this Decree may be undertaken before its entry into force.