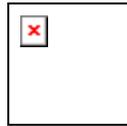


DRAFT ADOPTION (AMENDMENT No. 5) (JERSEY) LAW 200

**Lodged au Greffe on 18th December 2001
by the Health and Social Services Committee**



STATES OF JERSEY

STATES GREFFE

150

2001

P.201

Price code: D

European Convention on Human Rights

The President of the Health and Social Services Committee has made the following statement -

In the view of the Health and Social Services Committee the provisions of the Draft Adoption (Amendment No. 5) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator S. Syvret**

REPORT

The proposed amendments to the Adoption (Jersey) Law 1961 will facilitate local adoptive applicants' access to overseas adoption opportunities, as well as adoption placements made under United Kingdom Law, and resolve a problem of local domicile that exists. The amendments will also update the Law with the relevant new concepts of the proposed Children (Jersey) Law 200-, as well as making a number of minor amendments to the principal Law.

Overseas Adoptions: as the number of children becoming available for adoption locally has diminished sharply in recent years, couples wanting to adopt have begun to explore the possibility of adopting children from countries where the number of children in need of adoptive homes remains high. This has presented couples with a number of problems, which have included gaining approval as suitable applicants within the countries of placement, satisfying those countries' pre-adoption requirements and obtaining adequate medical and social history information in respect of the children concerned.

The international community has also been concerned to regularise the adoptive arrangements and processes between countries to ensure that adequate safeguards are in place to vet the suitability of adoptive applicants, that standardised checks/assessments in respect both of the applicants and the child are undertaken, and all reasonable steps are taken to promote successful adoption placements. The need to achieve these goals has led to the creation of the Hague Convention on Intercountry Adoption.

The Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on May 29th 1993, is a framework setting out standards and requirements in respect of the process of adopting a child resident in a different country. It enables individual countries to implement that framework by means of domestic law and these amendments to our 1961 Adoption Law will enable Jersey to satisfy the requirements and to participate in the Convention arrangements. It is essential for these steps to be taken in the interests of local adoptive applicants as countries 'signing up' to the Convention will not deal with countries outside of the Convention. The effect of the amendments, therefore, is to facilitate adoption opportunities for local couples wishing to adopt children from countries which are signatories of the Convention.

Other changes of a general nature include the relaxation of the domicile requirement so as to allow adoption orders to be made in favour of a person domiciled anywhere in the British Islands, not just Jersey. This will facilitate adoptions by Island residents who remain United Kingdom-domiciled because they are here on temporary contracts of employment. Changes to Article 5 of the principal Law will also allow for the making of an adoption order in respect of a child freed for adoption by an order of the Court in another part of the British Islands. The power to make an adoption order following a court order made anywhere in the British Islands is extended to orders made anywhere.

In addition, there is to be provision for progress reports to be given to parents where a child has been freed for adoption, so that they know whether or not an adoption order has been made, and parents will also be able to apply for a freeing for adoption order to be revoked where the child has not been adopted and no longer lives with the proposed adopter. These provisions mirror those in the United Kingdom and enable natural parents to revive their responsibilities for a child where arrangements for his adoption have fallen through.

The Health and Social Services Committee will not be seeking either additional manpower or funding in order to administer this Law. The provisions of the Law are compatible with the European Convention on Human Rights.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a *Projet de Loi* to make a statement about the compatibility of the provisions of the *Projet* with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 7th December 2001 the Health and Social Services Committee made the following statement before Second Reading of this *projet* in the States Assembly -

In the view of the Health and Social Services Committee the provisions of the Draft Adoption (Amendment No. 5) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This draft Law, which is linked to P.200/2001 (which relates to the draft Children (Jersey) Law 200-), amends the Adoption (Jersey) Law 1961 in three different respects -

- (a) it makes amendments that are consequential upon the draft Children (Jersey) Law 200-;
- (b) it gives effect to the Hague Convention on inter-country adoptions; and
- (c) it makes minor reforms and drafting improvements.

The Convention on Protection of Children and Co-operation in respect of Intercountry Adoption concluded at The Hague on 29th May 1993 is a framework setting out minimum standards for the process of adopting a child resident in a different country to that of his adopters, to work in the best interests of that child. It enables individual countries to implement it by means of domestic law and these amendments to the 1961 Adoption Law, if approved, will enable Jersey to participate. The opportunity has been taken to combine these proposed changes with those proposed to enable the 1961 Law to operate alongside the proposed new Children Law. At the same time a few additional improvements have been made as indicated below.

Article 1 construes references to the “principal Law” as meaning the Adoption (Jersey) Law 1961 as amended.

Article 2 inserts a number of new definitions into the principal Law and removes a redundant definition. *Articles 3 and 4* make consequential amendments in references to adoption and adoption societies.

Article 5 amends Article 2 of the principal Law so as to allow the Royal Court to make adoption orders in favour of a person domiciled in the British Islands (previously the applicant had to be domiciled in Jersey) or in favour of two spouses where only one is domiciled in the British Islands. The requirements as to domicile do not apply in the case of Convention adoption orders meeting certain conditions. In addition adoption orders may in future be made in respect of children adopted following a court order anywhere, not just within the British Islands, and the requirement for the applicant and the child to reside in the Island is removed.

Article 6 inserts new Articles 3A-3C into the principal Law. The new Article 3A empowers the Health and Social Services Committee by Order to give effect to the Hague Convention. The material parts of the text of the Convention are set out in a new Third Schedule to the principal Law which is inserted by the *Schedule* to this Law added by *Article 32*. Article 3B gives the Committee the responsibility for discharging the functions of the Central Authority under the Convention. An approved adoption society is an accredited body for the purposes of the Convention, if the approval extends to providing facilities in respect of adoptions effected in pursuance of the Convention, and certain functions of the Central Authority under the Convention are delegated to accredited bodies. These relate to the collecting of information about the child and the prospective adopters, facilitating the proceedings and developing counselling and post-adoption services. Under Article 3C an adoption order is made as a Convention adoption order if it complies with prescribed requirements.

Article 7 substitutes in Article 4 of the principal Law (freeing for adoption) references to the terminology of the draft Children (Jersey) Law 200 (parental responsibility). The new paragraph (7) requires the court, where a child’s father does not have parental responsibility for him, to satisfy itself in relation to any person claiming to be the father that he has no intention of applying for parental responsibility or a residence order under that Law or if he did so the application would be refused.

Article 8 inserts two new Articles into the principal Law supplementing the freeing for adoption provisions. The new Article 4A provides for the giving of reports to the child’s parents following a freeing for adoption order as to whether and when the child has been adopted or whether he is living with the proposed adopter. The new Article 4B enables the parents in certain circumstances to apply for the revocation of a freeing for adoption order and provides for the consequences of such revocation being made.

Article 9 amends Article 5 of the principal Law so as to allow the making of an adoption order where the child is freed for adoption by an order of the court under Article 4 or by a court in another part of the British Islands. The new paragraph (6) requires the court, where a child’s father does not have parental responsibility for him, to satisfy itself in relation to any person claiming to be the father that he has no intention of applying for parental responsibility or a residence order under that Law or if he did so the application would be refused.

Article 10 makes drafting improvements to Article 7 of the principal Law and extends the requirements in that Article (a) for the applicant to notify the Committee 3 months prior to an adoption order being made to children above school leaving age and (b) for the child to have his home with the applicant(s) from three months to six in the case of a Convention adoption

order or a foreign adoption.

Articles 11 and 12 make further changes in terminology resulting from the Children Law in Articles 8 and 9 of the principal Law.

Article 13 adds an additional Rule-making power in Article 10 of the principal Law in connection with the court's direction under the new Article 12(5) of the principal Law in respect of adoptions other than full adoptions.

Article 14 repeals Article 11 of the principal Law which is no longer needed once the residence requirement in Article 2 is removed.

Article 15 modifies the provisions of Article 12 of the principal Law in relation to the consequences of adoption so as to make more detailed provision and to apply the new Children Law terminology. It also introduces the power for a Convention adoption to have effect other than as a full adoption (which treats the child as if he were not the child of any person other than the adopters) in certain circumstances where this is more favourable to the child.

Articles 16 and 17 extend the definition of "adoption order" for the purposes of Articles 13 (friendly societies, insurance, etc) and 15 (intestacies, etc) of the principal Law so as to cover all adoption orders made by a court of competent jurisdiction whether in the Island or elsewhere.

Article 18 makes a minor amendment to Article 16 of the principal Law relating to the Adopted Children Register. *Article 19* inserts a new provision into Article 17 of the principal Law concerned with entries in that register in relation to Convention or overseas adoptions. *Article 20* makes provision for Convention and overseas adoptions in relation to the power in Article 18 of the principal Law to alter the register where such an order ceases to have effect or was made erroneously.

Articles 21 and 22 empower the Committee to prescribe by Order fees for entry in the Adoption Contact register under Article 18A of the principal Law and with respect to birth certification of adopted persons under Article 20A of that Law (these powers previously being exercisable by Royal Court under the Adoption Rules).

Articles 23 and 24 make minor amendments to Article 23 and 26 of the principal Law in connection with protected children. These changes result from the new Children Law terminology and concepts.

Article 25 repeals Article 27 of the principal Law as the new Children Law will provide equivalent powers to protect children and the amendments to Article 28 occasioned by *Article 26* are consequent on this repeal. *Article 27* contains further minor Children Law-inspired amendments relating to the prohibition of certain payments under Article 30 of the principal Law.

Article 28 inserts new Articles 30A, 30B and 30C into the principal Law. Article 30A makes it an offence to bring a child into the Island for adoption unless prescribed conditions are met. Article 30B empowers the Royal Court to annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy. Article 30C gives effect in certain circumstances to determinations and orders made in relation to Convention adoptions other than in the Island.

Articles 29 and 30 amend Articles 31 and 32 of the principal Law to give effect to new Children Law terminology and *Article 31* makes further provision with respect to Orders.

Article 33 contains the citation provision and provides for the Law to come into force on such day or days as the States may be Act appoint.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, the standard scale of fines is -

Level 1	£50
Level 2	£500
Level 3	£2,000
Level 4	£5,000.

ADOPTION (AMENDMENT No. 5) (JERSEY) LAW 200-

A LAW to amend further the Adoption (Jersey) Law 1961; sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200)

STATES OF JERSEY

The _____ day of _____ 200

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

In this Law “principal Law” means the Adoption (Jersey) Law 1961,^[1] as amended.^[2]

ARTICLE 2

In Article 1 of the principal Law^[3] -

(a) in paragraph (1) -

(i) there shall be inserted, in the correct alphabetical order, the following definitions -

“ ‘the Adoption Service’ has the meaning assigned to it by paragraph (3) of Article 1A of this Law;

‘approved adoption society’ means -

- (a) the adoption service;
- (b) an adoption society approved under the Adoption Act 1976 (c.36) of the United Kingdom; and
- (c) the Committee of the States of Guernsey with responsibility for matters relating to the adoption of infants;

‘the Convention’ means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at The Hague on 29th May 1993;

‘Convention adoption’ means an adoption effected under the law of a Convention country outside the British Islands and certified in pursuance of Article 23(1) of the Convention;

‘Convention adoption order’ means an adoption order made in accordance with Article 3C of this Law;

‘Convention country’ means any country or territory in which the Convention is in force;

‘guardian’ has the same meaning as in the Children (Jersey) Law 200-^[4];

‘overseas adoption’ means an adoption appearing to the Court to be effected under the law of any country outside the British Islands;

'parent' means, in relation to an infant, any parent who has parental responsibility for him under the Children (Jersey) Law 200-^[5]; and

'parental responsibility' has the same meaning as in the Children (Jersey) Law 200-⁵;" and

(ii) for the definition of "adoption order" there shall be substituted the following definition -

" 'adoption order' means -

(a) an order under paragraph (1) of Article 2 of this Law; or

(b) a Convention adoption order;" and

(iii) the definition of "mental nursing home" shall be deleted.

(b) paragraph (2) shall be deleted; and

(c) after paragraph (3) there shall be inserted the following paragraphs -

"(3A) In this Law, in determining with whom or where an infant has his home, any absence of the infant at a hospital or boarding school and any other temporary absence shall be disregarded.

(3B) In this Law, in relation to the proposed adoption of an infant resident outside the British Islands, references to arrangements for the adoption of an infant include references to arrangements for an assessment for the purpose of indicating whether a person is suitable to adopt an infant or not.

(3C) In this Law, in relation to -

(a) an adoption proposed to be effected by a Convention adoption order; or

(b) an adoption of an infant habitually resident outside the British Islands which is proposed to be effected otherwise than by a Convention adoption order,

references to an infant placed with any persons by an adoption agency include references to an infant who, in pursuance of arrangements made by such an agency, has been placed with those persons under the law of a country or territory outside the British Islands."

ARTICLE 3

In Article 1A of the principal Law^[6] -

(a) in paragraph (1) for the words "approved adoption societies" there shall be substituted the words "another approved adoption society"; and

(b) for paragraph (4) there shall be substituted the following paragraph -

"(4) In Articles 1A to 1H of this Law references to adoption are to the adoption of infants, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the British Islands."

ARTICLE 4

For Article 1D of the principal Law^[7] there shall be substituted the following Article -

"ARTICLE 1D.

DUTY TO USE APPROVED ADOPTION SOCIETIES.

The Committee shall, if it cannot place an infant for adoption in the Island or in the Bailiwick of Guernsey, use an adoption society approved under the Adoption Act 1976 (c.36) of the United Kingdom."

ARTICLE 5

In Article 2 of the principal Law^[8] -

(a) For paragraphs (1) and (2) there shall be substituted the following paragraphs -

“(1) Subject to the provisions of this Law, the Court may, upon an application made in the prescribed manner -

- (a) by a person domiciled in the British Islands; or
- (b) jointly by two spouses at least one of whom is domiciled in the British Islands,

make an order authorizing the applicant or, in the case of an application by two spouses, the applicants, to adopt the infant.

(2) Where the application is for a Convention adoption order and complies with Article 3C of this Law the requirements of paragraph (1) of this Article in respect of domicile shall not apply.”;

- (b) In paragraph (4) for the words “in the British Islands” there shall be substituted the words “whether in the Island or elsewhere”; and
- (c) paragraph (5) shall be deleted.

ARTICLE 6

After Article 3 of the principal Law^[9] there shall be inserted the following Articles -

“ARTICLE 3A.

IMPLEMENTATION OF CONVENTION.

(1) Subject to the provisions of this Law, the Committee may by Order make provision for giving effect to the Convention, and such provision may include amendments to this Law.

(2) The text of the Convention (so far as material) is set out in the Third Schedule to this Law.

(3) An Order under this Article may provide that any person who contravenes or fails to comply with any provision of the Order shall be guilty of an offence and liable to imprisonment for a term not exceeding three months, or a fine not exceeding level 4 on the standard scale,^[10] or both.

(4) Any power to make subordinate legislation under or for the purposes of this Law includes power to do so with a view to giving effect to the provisions of the Convention.

ARTICLE 3B.

CENTRAL AUTHORITY AND ACCREDITED BODIES.

(1) The Committee shall discharge the Central Authority’s functions under the Convention but any of its functions under Articles 8, 9 or 15 to 21 of the Convention may be discharged by an accredited body on the Committee’s behalf.

(2) An approved adoption society is an accredited body for the purposes of the Convention if the approval extends to the provision of facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.

ARTICLE 3C.

CONVENTION ADOPTION ORDERS.

An adoption order shall be made as a Convention adoption order if -

- (a) the application is for a Convention adoption order; and
- (b) such requirements as may be prescribed by Order made by the Committee are complied with.”.

ARTICLE 7

In Article 4 of the principal Law^[11] -

- (a) for paragraph (5) there shall be substituted the following paragraph -

“(5) On the making of an order under this Article parental responsibility for the infant is given to the Committee and paragraph (2) of Article 12 of this Law applies as if the order were an adoption order and the Committee was the adopter.”; and

- (b) after paragraph (6) there shall be added the following paragraphs -

“(7) Before making an order under this Article in the case of an infant whose father does not have parental responsibility for him, the Court shall satisfy itself in relation to any person claiming to be the father that -

- (a) he has no intention of applying within the next six months for an order under Article 5 of the Children (Jersey) Law 200- or a residence order under Article 10 of that Law; or
- (b) if he did make any such application, it would be likely to be refused.

(8) An order under this Article may be made in respect of an infant who has already been the subject of an adoption order made by a court of competent jurisdiction whether in the Island or elsewhere.”.

ARTICLE 8

After Article 4 of the principal Law^[12] there shall be inserted the following Articles -

“ARTICLE 4A.

PROGRESS REPORTS TO FORMER PARENTS.

(1) Within 14 days following the date 12 months after the making of an order under Article 4 of this Law, the Committee, unless it has previously by notice to the former parent informed him that the infant has been adopted, shall inform that parent by notice -

- (a) whether the infant has been adopted; and
- (b) if he has not been adopted whether he has his home with a person with whom he has been placed for adoption.

(2) Where a notice has been given as described in sub-paragraph (b) of paragraph (1) of this Article the Committee shall inform the former parent by notice -

- (a) if and when the infant is adopted; and
- (b) if the infant ceases to have his home with a person with whom he has been placed for adoption.

(3) If at any time the former parent by notice makes a declaration to the Committee that he prefers not to be involved in future questions concerning the adoption of the infant -

- (a) the Committee shall secure that the declaration is recorded by the Court; and

(b) the Committee shall be released from any further requirements under paragraph (2) of this Article.

(4) In this Article and Article 4B of this Law ‘former parent’ means any person required to be given an opportunity of making a declaration under paragraph (6) of Article 4 but who did not do so.

ARTICLE 4B.

REVOCATION OF ARTICLE 4 ORDER.

(1) Where at any time more than 12 months after the making of an order under Article 4 of this Law (an ‘Article 4 order’), if the infant -

- (a) has not been adopted; and
- (b) does not have his home with a person with whom he has been placed for adoption,

his former parent may apply to the Court for an order revoking the Article 4 order on the ground that he wishes to resume parental responsibility.

(2) While an application under this Article is pending the Committee shall not place the infant for adoption without the leave of the Court.

(3) The revocation of an Article 4 order operates -

- (a) to extinguish the parental responsibility given to the Committee;
- (b) to give parental responsibility to the infant’s mother and, where his father and mother were married at the time of his birth, his father; and
- (c) to revive -
 - (i) any parental responsibility agreement;
 - (ii) any order pursuant to Article 5 of the Children (Jersey) Law 200-^[13] that the father shall have parental responsibility for the infant; and
 - (iii) any appointment of a guardian in respect of the infant (whether made by a court or otherwise), extinguished by the making of the Article 4 order.

(4) Subject to sub-paragraph (c) of paragraph (3) of this Article, the revocation does not -

- (a) operate to revive -
 - (i) any order under the Children (Jersey) Law 200-^[14] or
 - (ii) any duty referred to in Article 12(2)(a)(iii) of this Law, extinguished by the making of the Article 4 order; or
- (b) affect any person’s parental responsibility so far as it relates to the period between the making of the Article 4 order and the date of revocation of that order.

(5) Subject to paragraph (6) of this Article, where the Court dismisses an application under this Article on the grounds that to allow it would contravene the principle embodied in Article 1B of this Law -

- (a) the applicant shall not be entitled to make a further application in respect of the infant; and
- (b) the Committee shall be released from the duty of complying further with paragraph (2) of Article 4A of this Law as respects that parent.

(6) Sub-paragraph (a) of paragraph (5) of this Article shall not apply where the Court gives leave to the former parent to make a further application to revoke the Article 4 order, but such leave shall not be given unless it appears to the Court that because of a change in circumstances or for any other reason it is proper to allow the application to be made.”.

ARTICLE 9

In Article 5 of the principal Law^[15] -

(a) for paragraph (1) there shall be substituted the following paragraph -

“(1) An adoption order shall not be made unless -

(a) the infant is free for adoption by virtue of an order made under Article 4 of this Law or by order of a court of competent jurisdiction in any other part of the British Islands; or

(b) in the case of each parent or guardian of the infant the Court is satisfied that -

(i) he freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order, whether or not he knows the identity of the applicants; or

(ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in paragraph (2) of this Article.”;

(b) in paragraph (2) for the words “sub-paragraph (b)” there shall be substituted the words “clause (ii) of sub-paragraph (b)”;

(c) in paragraph (3) for the words “sub-paragraph (a)” there shall be substituted the words “clause (i) of sub-paragraph (b)”;

(d) after paragraph (5) there shall be added the following paragraph -

“(6) Before making an adoption order in the case of an infant whose father does not have parental responsibility for him, the Court shall satisfy itself in relation to any person claiming to be the father that -

(a) he has no intention of applying within the next six months for an order under Article 5 of the Children (Jersey) Law 200-^[16] or a residence order under Article 10 of that Law; or

(b) if he did make any such application, it would be likely to be refused.”.

ARTICLE 10

In Article 7 of the principal Law^[17] -

(a) in the heading for the words “CARE AND POSSESSION OF INFANTS” there shall be substituted the words “INFANT TO LIVE WITH ADOPTERS”;

(b) for paragraph (1) there shall be substituted the following paragraph -

“(1) An adoption order shall not be made unless the infant, at all times during the preceding three months (not counting any time before he attained the age of six weeks), had his home with the applicant (or, in the case of an application by two spouses, one of the applicants).”;

(c) in paragraph (2) the words “in respect of an infant who at the hearing of the application is below the upper limit of compulsory school age” shall be deleted;

(d) in paragraph (3) for the words “the care and possession of” there shall be substituted “his home with”; and

(e) after paragraph (3) there shall be added the following paragraph -

“(4) In relation to -

- (a) an adoption proposed to be effected by a Convention adoption order; or
- (b) an adoption of an infant habitually resident outside the British Islands which is proposed to be effected otherwise than by a Convention adoption order,

paragraph (1) shall have effect as if the reference to the preceding three months were a reference to the preceding six months.”.

ARTICLE 11

In Article 8(1)(a) of the principal Law^[18] for the words “to deprive him or her of his or her parental rights” there shall be substituted the words “to extinguish his parental responsibility for the infant”.

ARTICLE 12

In Article 9(1) and (4) of the principal Law^[19] for the words “the custody of” there shall be substituted the words “parental responsibility for”.

ARTICLE 13

After Article 10(6) of the principal Law^[20] there shall be added the following paragraph -

“(7) Adoption Rules may make provision -

- (a) as to the form of a direction under paragraph (5) of Article 12 of this Law or an application for such a direction;
- (b) as to the information required to be given by an applicant for such a direction;
- (c) as to the persons who are to be parties to proceedings on an application under that paragraph; and
- (d) requiring notice of an application under that paragraph to be served on the Attorney General and on persons who may be affected by the direction.”.

ARTICLE 14

Article 11 of the principal Law²⁰ shall be repealed.

ARTICLE 15

In Article 12 of the principal Law^[21] -

- (a) for the heading there shall be substituted the following heading -

“CONSEQUENCES OF ADOPTION.”;

- (b) for paragraphs (1) and (2) there shall be substituted the following paragraphs -

“(1) An adopted infant shall be treated in law -

- (a) where his adopters are a married couple, as if he had been born as a child of the marriage (whether or not he was born after that marriage); and
- (b) in any other case as if he had been born to the adopter in wedlock (but not as a child of any actual marriage of the adopter).

(1A) An adopted infant shall be treated in law as if he were not a child of any person other than any adopter.

(1B) In the case of an infant adopted solely by a natural parent, paragraph (1A) of this Article has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.

(2) Where an adoption order is made -

(a) the following are extinguished -

(i) the parental responsibility which any person has for the infant immediately before the making of the order;

(ii) any order under the Children (Jersey) Law 200^[22] unless the court directs otherwise; and

(iii) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the infant's maintenance or upbringing for any period after the making of the order, unless made under an agreement which constitutes a trust or expressly provides that the duty is not to be extinguished by the making of an adoption order; and

(b) the adopter shall have parental responsibility for the adopted infant.”; and

(c) after paragraph (4) there shall be added the following paragraphs -

“(5) Where, in the case of an infant adopted under a Convention adoption, the Court is satisfied, on an application under this paragraph -

(a) that under the law of the country in which the adoption was effected the adoption is not a full adoption;

(b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption, or that the Island is not the receiving State (within the meaning of Article 2 of the Convention); and

(c) that it would be more favourable to the infant for a direction to be given under this paragraph,

the court may direct that the adoption shall have effect other than as a full adoption.

(6) In paragraph (5) of this Article ‘full adoption’ means an adoption by virtue of which the infant falls to be treated in law as if he were not the infant of any person other than the adopters or adopter.”.

ARTICLE 16

In Article 13 of the principal Law^[23] after paragraph (2) there shall be added the following paragraph -

“(3) In this Article ‘adoption order’ means an adoption order made by a court of competent jurisdiction whether in the Island or elsewhere.”.

ARTICLE 17

In Article 15 of the principal Law^[24] after paragraph (8) there shall be added the following paragraph -

“(9) In this Article ‘adoption order’ means an adoption order made by a court of competent jurisdiction whether in the Island or elsewhere.”.

ARTICLE 18

In Article 16(1) of the principal Law^[25] for the words from “shall be made” to the end of the paragraph there shall

be substituted the words “such entries as may be -

- (a) directed to be made in it by adoption orders; or
- (b) required to be made under Article 17 of this Law,

and no other entries shall be made.”.

ARTICLE 19

After Article 17(6) of the principal Law^[26] there shall be added the following paragraph -

“(7) If the Superintendent-Registrar is satisfied, on an application under this paragraph, that he has sufficient particulars relating to an infant adopted under a Convention or overseas adoption to enable an entry to be made in the Adopted Children Register for the infant -

- (a) he shall make the entry accordingly; and
- (b) if he is also satisfied that an entry in the Registers of Births relates to the infant, he shall secure that the entry in those Registers is marked ‘Adopted’ or ‘Re-adopted’, as the case may be, followed by the name in brackets of the country in which the adoption was effected.”.

ARTICLE 20

After Article 18(3) of the principal Law^[27] there shall be added the following paragraph -

“(4) If the Superintendent-Registrar is satisfied -

- (a) that a Convention adoption, a Convention adoption order or an overseas adoption has ceased to have effect, whether on annulment or otherwise; or
- (b) that any entry or mark was erroneously made in pursuance of paragraph (7) of Article 17 of this Law in any register mentioned in that paragraph,

he may cause such alterations to be made in that register as he considers are required in consequence of the cesser or to correct the error; and where an entry in the register is amended in pursuance of this sub-paragraph, any copy or extract of the entry shall be deemed to be accurate if and only if it shows the entry as amended but without indicating that it has been amended.”.

ARTICLE 21

In Article 18A(4) and (6) of the principal Law^[28] for the words “such fee as may be prescribed” there shall be substituted the words “such fee as the Committee may by Order prescribe”.

ARTICLE 22

In Article 20A(1) and (2) of the principal Law^[29] -

- (a) for the words “in the prescribed manner” there shall be substituted the words “in such manner as the Committee may by Order prescribe”; and
- (b) for the words “such fee as may be prescribed” there shall be substituted the words “such fee as the Committee may by Order prescribe”.

ARTICLE 23

In Article 23 of the principal Law^[30] -

- (a) in paragraph (1) for the words “is in the care and possession of” there shall be substituted the words “has his

home with”; and

(b) for paragraphs (2) to (4) there shall be substituted the following paragraphs -

“(2) A child is not a protected child by reason of any such notice as is mentioned in paragraph (1) of this Article while -

(a) he is in the care of any person -

- (i) in any voluntary home or children’s home;
- (ii) in any school where he is receiving full-time education;
- (iii) in a hospital; or

(b) he is -

- (i) suffering from a mental disorder within the meaning of the Mental Health (Jersey) Law 1969;^[31] and
- (ii) resident in a residential care home; or

(c) he is liable to be detained or subject to guardianship under the Mental Health (Jersey) Law 1969;^[32]

(3) In sub-paragraph (2) of this Article ‘hospital’, ‘residential care home’, ‘school’ and ‘voluntary home’ have the same meaning as in the Children (Jersey) Law 200-^[33].

(4) A protected child ceases to be a protected child -

- (a) on the grant or refusal of the application for an adoption order;
- (b) on the notification to the Committee that the application for an adoption order has been withdrawn;
- (c) in a case where no application is made for an adoption order, on the expiry of a period of two years from the giving of the notice;
- (d) on the making of a residence order, a care order or a supervision order (other than an interim care order or an interim supervision order) under the Children (Jersey) Law 200-³³ in respect of the child;
- (e) on the appointment of a guardian for him under that Law;
- (f) on his attaining the age of majority; or
- (g) on his marriage,

whichever first occurs.”.

ARTICLE 24

In Article 26 of the principal Law^[34] -

- (a) in paragraph (1) for the words “who has a protected child in his care and possession” there shall be substituted the words “with whom a protected child has his home”;
- (b) in paragraph (2) for the words “in whose care and possession he was” there shall be substituted the words “with whom he had his home”; and
- (c) in paragraph (3) for the words “who has or proposes to have a protected child in his care and possession”

there shall be substituted the words “with whom a protected child has, or is proposed to have, his home”.

ARTICLE 25

Article 27 of the principal Law^[35] shall be repealed.

ARTICLE 26

In Article 28(1) of the principal Law^[36] -

- (a) at the end of sub-paragraph (a) there shall be inserted the word “or”;
- (b) for the semicolon at the end of sub-paragraph (b) there shall be substituted a full stop; and
- (c) sub-paragraph (c) shall be deleted.

ARTICLE 27

In Article 30 of the principal Law^[37] -

- (a) in paragraph (1)(c) for the words “transfer by that person of the care and possession of an infant” there shall be substituted the words “handing over of an infant by that person”; and
- (b) in paragraph (2) the words from “; and the Court” to “made for him” shall be deleted.

ARTICLE 28

After Article 30 of the principal Law^[38] there shall be inserted the following Articles -

“ARTICLE 30A.

RESTRICTION ON BRINGING INFANTS INTO THE ISLAND FOR ADOPTION.

(1) A person habitually resident in the British Islands who at any time brings into the Island for the purpose of adoption an infant who is habitually resident outside those Islands shall be guilty of an offence unless such requirements as may be prescribed by Order made by the Committee are satisfied either -

- (a) before that time; or
- (b) within such period beginning with that time as may be so prescribed.

(2) Paragraph (1) of this Article does not apply where the infant is brought into the Island for the purpose of adoption by a parent, guardian or relative.

(3) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale,^[39] or to both.

ARTICLE 30B.

ANNULMENT ETC OF OVERSEAS ADOPTIONS.

(1) The Court may, upon application under this Article, by order annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy.

(2) The Court may, upon application under this paragraph -

- (a) order that an overseas adoption or a determination shall cease to be valid in the Island on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorize the adoption or make the determination was not competent to entertain the case;

(b) decide the extent, if any, to which a determination has been affected by a subsequent determination.

(3) Any court in the Island may, in any proceedings in that court, decide that an overseas adoption or a determination shall, for the purposes of those proceedings, be treated as invalid in the Island on either of the grounds mentioned in paragraph (2) of this Article.

(4) Except as provided by this Article the validity of a Convention adoption, a Convention adoption order or an overseas adoption shall not be impugned in the Island in proceedings in any court.

(5) In this Article ‘determination’ means a determination mentioned in Article 30C of this Law.

ARTICLE 30C.

EFFECT OF DETERMINATION AND ORDERS MADE IN OTHER PARTS OF THE BRITISH ISLANDS AND OVERSEAS.

(1) Where -

(a) an authority of a Convention country having power under the law of that country -

(i) to authorize, or review the authorization of, a Convention adoption; or

(ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order; or

(b) an authority of any other part of the British Islands or any colony having power under the law of that territory -

(i) to authorize, or review the authorization of, a Convention adoption or an adoption effected in that territory; or

(ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order,

makes a determination in the exercise of that power, then, subject to Article 30B of this Law and any subsequent determination having effect under this Article, the determination shall have effect in the Island for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination as the case may be.”.

ARTICLE 29

In Article 31(1) of the principal Law^[40] for the words “transferring the care and possession of an infant to” there shall be substituted the words “placing an infant with”.

ARTICLE 30

In Article 32(1) of the principal Law^[41] for the words “the custody of” there shall be substituted the words “parental responsibility for”.

ARTICLE 31

After Article 32A(1) of the principal Law^[42] there shall be inserted the following paragraph -

“(1A) Orders under this Law may -

(a) make different provision for different purposes or areas; and

(b) make such incidental, supplementary, consequential or transitional provision as appears to the Committee to be expedient.”.

ARTICLE 32

After the Second Schedule to the principal Law^[43] there shall be added the Schedule set out in the Schedule to this Law.

ARTICLE 33

- (1) This Law may be cited as the Adoption (Amendment No. 5) (Jersey) Law 200.
- (2) This Law shall come into force on such day as the States may by Act appoint and different days may be appointed for different purposes.

SCHEDULE

“THIRD SCHEDULE

(Article 3A(2).)

CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION.

The States signatory to the present Convention,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the United Nations Convention on the Rights of the Child, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions -

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are -

- (a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law;
- (b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- (c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

1. The Convention shall apply where a child habitually resident in one Contracting State ('the State of origin') has been, is being, or is to be moved to another Contracting State ('the receiving State') either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

2. The Convention covers only adoptions which create a permanent parent-child relationship.

Article 3

The Convention ceases to apply if the agreements mentioned in Article 17, sub-paragraph (c), have not been given before the child attains the age of eighteen years.

CHAPTER II

REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

Article 4

origin - An adoption within the scope of the Convention shall take place only if the competent authorities of the State of

- (a) have established that the child is adoptable;
- (b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interest;
- (c) have ensured that -
 - (i) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
 - (ii) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
 - (iii) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
 - (iv) the consent of the mother, where required, has been given only after the birth of the child; and
- (d) have ensured, having regard to the age and degree of maturity of the child, that -
 - (i) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,
 - (ii) consideration has been given to the child's wishes and opinions.
 - (iii) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
 - (iv) such consent has not been induced by payment or compensation of any kind.

Article 5

State - An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving

- (a) have determined that the prospective adoptive parents are eligible and suited to adopt;
- (b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and
- (c) have determined that the child is or will be authorised to enter and reside permanently in that State.

CHAPTER III

CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 6

1. A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

2. Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

1. Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.

2. They shall take directly all appropriate measures to -

- (a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
- (b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 8

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 9

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to -

- (a) collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- (b) facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- (c) promote the development of adoption counselling and post-adoption services in their States;
- (d) provide each other with general evaluation reports about experience with intercountry adoption;
- (e) reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall -

- (a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- (b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- (c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 12

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities

of both States have authorised it to do so.

Article 13

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

CHAPTER IV

PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

Article 14

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

Article 15

1. If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.

2. It shall transmit the report to the Central Authority of the State of origin.

Article 16

1. If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall -

- (a) prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
- (b) give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;
- (c) ensure that consents have been obtained in accordance with Article 4; and
- (d) determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

2. It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

Article 17

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if -

- (a) the Central Authority of that State has ensured that the prospective adoptive parents agree;
- (b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;
- (c) the Central Authorities of both States have agreed that the adoption may proceed; and
- (d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving State.

Article 18

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

Article 19

1. The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.
2. The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.
3. If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

Article 20

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 21

1. Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular -
 - (a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;
 - (b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;
 - (c) as a last resort, to arrange the return of the child, if his or her interests so require.
2. Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

Article 22

1. The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.
2. Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who -
 - (a) meet the requirements of integrity, professional competence, experience and accountability of that State; and
 - (b) are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.
3. A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.
4. Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 1.
5. Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance

with paragraph 1.

CHAPTER V

RECOGNITION AND EFFECTS OF THE ADOPTION

Article 23

1. An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognised by operation of law in the other Contracting States. The certificate shall specify when and by whom the agreements under Article 17, sub-paragraph c, were given.

2. Each Contracting State shall, at the time of signature, ratification, acceptance, approval or accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

Article 24

The recognition of an adoption may be refused in a contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Article 25

Any Contracting State may declare to the depositary of the convention that it will not be bound under this Convention to recognise adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

Article 26

1. The recognition of an adoption includes recognition of

- (a) the legal parent-child relationship between the child and his or her adoptive parents;
- (b) parental responsibility of the adoptive parents for the child;
- (c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

2. In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognised, rights equivalent to those resulting from adoptions having this effect in each such State.

3. The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognises the adoption.

Article 27

1. Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognises the adoption under the Convention, be converted into an adoption having such an effect -

- (a) if the law of the receiving State so permits; and
- (b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

2. Article 23 applies to the decision converting the adoption.

CHAPTER VI

GENERAL PROVISIONS

Article 28

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

Article 29

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs a to c, and Article 5, sub-paragraph a, have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

Article 30

1. The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.

2. They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

Article 31

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 32

1. No one shall derive improper financial or other gain from an activity related to an intercountry adoption.

2. Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.

3. The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 33

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

Article 34

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

Article 35

The competent authorities of the contracting States shall act expeditiously in the process of adoption.

Article 36

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units -

(a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a

territorial unit of that State;

- (b) any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;
- (c) any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorised to act in the relevant territorial unit;
- (d) any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant unit.

Article 37

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 38

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

Article 39

1. The convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States parties to such instrument.

2. Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

Article 40

No reservation to the Convention shall be permitted.

Article 41

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

Article 42

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.”.

[1] Volume 1961-1962, page 363.

[2] Volume 1963-1965, pages 103 and 445, Volume 1966-1967, page 39, Volume 1968-1969, page 426, Volume 1994-1995, pages 118 and 353, Volume 1999, pages 425, 433 and 514, Volume 2000, page 71 and R & O 8859.

[3] Volume 1961-1962, page 363, Volume 1994-1995, pages 118 and 353, Volume 1999, pages 425, 433 and 514 and R & O 8859.

[4] P.200/2001.

[5] P.200/2001.

[6] Volume 1961-1962, page 365 and Volume 1994-1995, page 353.

[7] Volume 1961-1962, page 365 and Volume 1994-1995, page 353.

[8] Volume 1961-1962, page 365.

- [9] Volume 1961-1962, page 366.
- [10] Volume 1992-1993, page 437.
- [11] Volume 1961-1962, page 366 and Volume 1994-1995, page 356.
- [12] Volume 1961-1962, page 366 and Volume 1994-1995, page 356.
- [13] P.200/2001.
- [14] P.200/2001.
- [15] Volume 1961-1962, page 367 and Volume 1994-1995, page 356.
- [16] P.200/2001.
- [17] Volume 1961-1962, page 368.
- [18] Volume 1961-1962, page 369.
- [19] Volume 1961-1962, page 370.
- [20] Volume 1961-1962, page 371.
- [21] Volume 1961-1962, page 372.
- [22] P.200/2001.
- [23] Volume 1961-1962, page 373.
- [24] Volume 1961-1962, page 374 and Volume 1963-1965, page 103.
- [25] Volume 1961-1962, page 375.
- [26] Volume 1961-1962, page 378.
- [27] Volume 1961-1962, page 379.
- [28] Volume 1961-1962, page 379 and Volume 1994-1995, page 359.
- [29] Volume 1961-1962, page 379 and Volume 1994-1995, page 362.
- [30] Volume 1961-1962, page 380, Volume 1968-1969, page 426 and Volume 1999, page 433.
- [31] Volume 1968-1969, page 347.
- [32] Volume 1968-1969, page 345, Volume 1970-1972, page 549, Volume 1994-1995, page 119 and R & O 5838.
- [33] P.200/2001.
- [34] Volume 1961-1962, page 381.
- [35] Volume 1961-1962, page 382.
- [36] Volume 1961-1962, page 383.
- [37] Volume 1961-1962, page 384, Volume 1994-1995, page 363 and Volume 1999, page 427.
- [38] Volume 1961-1962, page 384, Volume 1994-1995, page 363 and Volume 1999, page 427.
- [39] Volume 1992-1993, page 437.
- [40] Volume 1961-1962, page 385 and Volume 1994-1995, page 363.
- [41] Volume 1961-1962, page 386.
- [42] Volume 1961-1962, page 386 and Volume 1999, page 427.
- [43] Volume 1961-1962, page 390.