

Executive Order on Approval of Adopters

The following provisions are laid down pursuant to section 25, subsection (5) of section 25 b, subsection (3) of section 25 c, and section 30 of the Danish Adoption (Consolidation) Act no. 905 of 28 September 2009:

Chapter 1

Approval as an adopter

Authorization etc.

1. The adoption of a child under 18 years of age requires that the applicant has been approved as an adopter. The decision shall be made by the Joint Council of the Regional State Administration for the region in which the applicant is resident or staying.

(2) No approval shall be required for the adoption of a child or an adopted child of a spouse, a grandchild, a child of a sister or brother or a child of parents to whom the applicant is particularly closely attached through long and close acquaintance.

2. An adopter can be granted approval:

- 1) for the adoption of a specific child (specific approval), or
- 2) for the adoption of a child proposed by a Danish or foreign adoption authority or agency (abstract approval).

(2) The Joint Council shall determine the contents of the abstract approval (the approval framework).

3. Approval as an adopter is granted for 3 years starting from the date on which it is granted. If no child has been assigned to that applicant within 3 years, the Joint Council may extend the approval for an additional 2 years.

(2) If no child has been assigned to the applicant within a total of 5 years, a new application for approval must be filed, if the applicant continues to wish to adopt.

The application

4. Application for approval as an adopter shall be filed with the Regional State Administration. A married couple shall file the application jointly.

5. The application shall be filed on an approved form. The following documents shall be enclosed with the application:

- 1) certificates of birth- and baptism/birth- and name,
- 2) marriage certificate if the applicant is married,
- 3) tax certificate and default declaration,
- 4) health statement, and
- 5) health certificate.

(2) The health statement shall be completed by the applicant on an approved form.

(3) The health certificate shall be issued by the applicant's usual doctor on an approved form. If another doctor issues the certificate, the applicant shall give an adequate reason for this. At the time of filing of the application, the health certificate must not be more than three months old.

Approval requirements

6. An applicant can be approved as an adopter if the applicant satisfies the requirements of sections 7-10 and the applicant may otherwise be deemed suited to rear an adopted child alone or, if the applicant is married, cf. subsection (2) hereof, together with the applicant's spouse.

(2) An applicant who is married can only be approved as an adopter, if the spouse is approved as an adopter at the same time, cf. subsection (1) of section 5 of the Danish Adoption Act. However, this shall not apply where the spouse is in one of the conditions referred to in subsection (1) of section 5, of the Danish Adoption Act.

7. To be approved as an adopter the applicant's age at the time of application must not exceed the child's age by more than 40 years.

(2) However, the provision of subsection (1) hereof may be departed from if:

- 1) it is only one spouse's age which exceeds the child's age by more than 40 years, the other spouse being somewhat younger, or
- 2) within a reasonable period of time after having received an adopted child the applicant applies for approval to adopt another child, or
- 3) other special circumstances apply.

8. To be approved as an adopter it is furthermore a condition that

- 1) the applicant's physical and mental state of health does not impair the possibility that an adoption serves the best interests of the child,
- 2) the applicant has a home which provides a suitable environment for rearing the child,
- 3) the financial situation of the applicant is reasonable, and
- 4) the applicant has not been punished for offences which raise reasonable doubts as to whether the applicant is suited to adopt.

9. Unless special circumstances are involved, a married couple can only be approved as adopters if, at the time of filing the application, they have been living together for at least 2½ years.

10. To be approved for adoption, an applicant who has not previously adopted a child shall attend a pre adoption preparation course.

(2) If necessary the Joint Council may decide, until a decision is reached pursuant to section 14, that an applicant who has previously adopted a child shall attend a pre-adoption preparation course in order to be approved again.

Chapter 2

Investigation and approval process on application for approval as an adopter

The approval process at the Regional State Administration

11. The investigation process at the Regional State Administration consists of two phases. The investigation's first phase (phase 1) is initiated when the Regional State Administration receives an application for approval as an adopter. The investigation's last phase (phase 3) is initiated after the request from the applicant, when the Regional State Administration or the Joint Council has given notification that the process of the investigation or approval may continue, cf. section 13, and the applicant has taken part in a pre-adoption preparation course (phase 2), if this is required, cf. section 10.

(2) The application for implementation of phase 3 must be filed within three months after the Regional State Administration or the Joint Council has given notification, pursuant to section 13, that the process of investigation and approval may continue. If the applicant must take part in a pre-adoption preparation course, the application must be filed within one year after the decision pursuant to section 13. In special cases the Joint Council may grant an exemption from this time limit.

(3) Prior to phase 3 the applicant provides a confirmation that the applicant has taken part in a pre-adoption preparation course, if this is required.

(4) If the applicant wishes to carry out an international adoption without being registered with an adoption agency, prior to phase 3 the applicant must submit a confirmation that the applicant has obtained permission from the Department of Family Affairs, pursuant to section 32.

12. In phase 1 the Regional State Administration provides such information as necessary as to whether the applicant fulfils the general conditions in sections 7-9, cf. section 13.

(2) In phase 3 the Regional State Administration draws up an individual description of the applicant, for the purpose of the decision by the joint council, pursuant to section 14.

(3) The decision as to whether to carry out a medical, psychiatric, psychological or other investigation is made by the Joint Council. This applies even if the applicant consents to the investigation being carried out.

(4) The Regional State Administration must ensure that an applicant, who can be approved without taking part in a pre-adoption preparation course, receives advice to the required extent.

The approval process

13. If in phase 1 it is the opinion of the Regional State Administration that the applicant undoubtedly meets the general conditions set out in sections 7-9, the Regional State Administration can decide that the investigation and approval process may proceed without submission of the case to the Joint Council. In other cases the matter is submitted to the Joint Council.

(2) If the applicant fulfils the conditions in the cases referred to in second sentence of subsection (1), the Joint Council shall reach a decision that the process of investigation and approval may continue. If the applicant does not meet the conditions, the applicant shall be notified that his or her application for approval as an adopter has been refused.

14. As the conclusion of the process of investigation and approval, the Joint Council adopts a position as to whether the applicant may be deemed to be suitable to rear an adoptive child alone or, if the applicant is married, jointly with his or her spouse.

(2) If after an individual assessment the applicant may be deemed to be suitable to rear an adoptive child, the applicant is approved as an adopter in phase 3. If this is not the case the applicant shall be notified that the application has been refused.

Approval

15. It must be evident from the approval whether this includes:

- 1) an adoption which is brought about either by an adoption agency, cf. section 30, or the National Board of Adoption,
- 2) a national adoption of one specific child, or
- 3) an adoption for which the applicant has permission to carry out the said adoption without being registered with an adoption agency pursuant to section 32.

16. For applicants with an abstract approval, cf. subsection (1)(2) of section 2, who have declared the wish to adopt a child born in Denmark, the Regional State Administration submits the documents of the case to the National Board of Adoption.

17. For applicants with a specific or abstract approval, cf. subsection (1) of section 2, who has declared the wish to adopt a foreign child, the Regional State Administration draws up a report concerning the situation of the applicant, for the benefit of the adoption authorities abroad, based upon the individual description of the applicant. The Regional State Administration sends the report to the agency with which the applicant is registered, cf. section 31, or to the foreign authority or organization acting in the capacity of agent, cf. section 32.

Pre-adoption preparation course

18. The Department of Family Affairs shall plan and offer the pre-adoption preparation course mentioned in section 10, which shall form an independent part of the investigation and approval process (phase 2).

19. Participation in the course cannot take place until:

- 1) the Regional State Administration or the Joint Council has decided that the investigation and approval process may proceed, cf. section 13, and
- 2) payment of the amount mentioned in section 39 has been made.

(2) The registration form shall be submitted by the applicant to the Department of Family Affairs when the conditions set out in the subsection (1)(1) are met.

20. The applicant shall be deemed to have attended a pre-adoption preparation course when the applicant has completed the whole course according to a course program planned by the Department of Family Affairs.

(2) Married couples are required to have attended the course at the same time.

21. No information about the applicant may be procured, for use in the Joint Council's decision on approval as an adopter, which has emerged in connection with the applicant taking part in a pre-adoption preparation course. Neither are the course organizers or any other persons to disclose such information to the Regional State Administration or the Joint Council.

Discontinuation of the approval as an adopter

22. The Joint Council may decide that an approval as an adopter shall be discontinued if the conditions for approval are no longer fulfilled, or if the applicant cannot otherwise be deemed to be suited as an adopter, cf. subsection (2) of section 25 a of the Danish Adoption Act.

(2) The investigations required for the Joint Council's decision under subsection (1) hereof shall be carried out by the Regional State Administration.

(3) The applicant shall notify the Regional State Administration of any relevant changes in the situation of the applicant.

Chapter 4

Foreign child proposed (matching proposal)

23. When a specific child is proposed to the applicant as a suggestion for adoption, through the adoption agency with which the applicant is registered, the adoption agency carries out an assessment of whether the child may be regarded as being within the scope of the applicant's approval. The adoption agency notifies the applicant of its assessment and, at the same time, sends the information about the child to the applicant.

24. If in the opinion of the adoption agency the proposed child is undoubtedly within the scope of the applicant's approval, the adoption agency shall request the applicant to state whether the applicant agrees with the proposal that he/she adopts the proposed child.

(2) The adoption agency shall notify the Regional State Administration of the applicant's statement and shall at the same time forward the information about the child to the Regional State Administration.

25. If in the opinion of the adoption agency the proposed child is not within the scope of the applicant's approval, the adoption agency shall inform the applicant of the possibility of applying for extension of the approval to include the proposed child.

(2) If the applicant wishes to apply for an extension of the approval to include the proposed child, the adoption agency shall inform the Regional State Administration and shall at the same time forward the information about the child to the Regional State Administration.

(3) The Joint Council shall decide whether or not to grant the applicant's application for extension of the approval to include the proposed child. The Regional State Administration shall carry out the investigations required for the decision of the Joint Council.

26. The adoption agency may set a reasonable time limit within which the applicant's notification must be given, pursuant to sections 24 and 25.

27. If in the opinion of the adoption agency there is doubt about the extent to which the proposed child is within the scope of the applicant's approval, the adoption agency forwards the information about the child to the Joint Council.

(2) The Joint Council adopts a position on whether the child is within the scope of the applicant's approval.

(3) The Regional State Administration notifies the applicant and the adoption agency about the Joint Council's decision. Sections 24-26 apply accordingly with the changes arising from the fact that the assessment, as to whether the proposed child is within the scope of the applicant's approval is carried out by the Joint Council.

28. When a child from another country is proposed to the Regional State Administration with a view to suggesting the child to the applicant for adoption, cf. section 32, the Joint Council assesses whether the proposed child is within the scope of the applicant's approval. The Regional State Administration notifies the applicant of the assessment and, at the same time, sends the information about the child to the applicant. Sections 24-26 apply accordingly with the changes arising from the fact that the assessment, as to whether the proposed child is within the scope of the applicant's approval is carried out by the Joint Council, and that the applicant's notification must be submitted to the Regional State Administration.

29. When a child is proposed for adoption, within the scope of the Hague Convention of 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption, and when the child is undoubtedly within the scope of the applicant's approval and the applicant agrees to adopt the proposed child, cf. section 24, the adoption agency shall issue a declaration in accordance with article 17c of the Hague Convention to the foreign central authority to the effect that the adoption may proceed.

(2) In cases where the matching proposal is to be submitted to the Joint Council, cf. sections 25 and 27, the declaration under Article 17c of the Hague Convention shall be issued by the Joint Council.

(3) A declaration under subsections (1) and (2) shall be issued on an approved form.

Chapter 5

Arrangement of adoption of children from other countries

International adoption

30. The Danish Minister of Justice has approved the following organizations (the adoption agencies) for receipt of requests for assistance with the creation of contact between Danish adoption applicants and children from other countries, with a view to adoption and for assistance with arrangement of the adoption:

- 1) AC Børnehjælp, Elkjærvej 31, DK-8230 Åbyhøj.
- 2) DanAdopt, Hovedgaden 24, DK-3460 Birkerød.

(2) Approvals under subsection (1) hereof and changes in these shall be published in Retsinformation.¹

31. An applicant approved as an adopter and applying to get an adoption of a child from another country arranged must be registered with an approved adoption agency. The applicant forwards the relevant documentation to the Regional State Administration, before the case is sent to the adoption agency, cf. section 17.

32. The Department of Family Affairs may permit the applicant to not be registered with an adoption agency if the applicant has special prior knowledge of the child or the child's relatives, or if any other special circumstances are involved.

(2) An applicant who is within the scope of subsection (1) hereof shall prove:

- 1) that the applicant's connection with the child or its relatives has been lawfully established in accordance with the rules in this country and the rules in the child's home country, and
- 2) that it must be assumed that the adoption can be made in a lawfully and ethically acceptable manner, and
- 3) that the foreign adoption authority or agency is not cooperating or discussing cooperation with an adoption agency approved in Denmark.

(3) The applicant shall procure a statement from the foreign adoption authority or agency, to the effect that the authority or agency will forward the information requested by the Regional State Administration directly to the Regional State Administration.

Giving up a Danish child for adoption

33. When a child is to be given up for adoption through the National Board of Adoption, cf. Executive Order on Adoption, first sentence of section 11, the National Board of Adoption selects, amongst the applicants whose applications have been sent to the National Board of Adoption cf. section 16, the applicant considered best suited to adopt the specific child.

34. When the Joint Council decides to approve an applicant for adoption of a specific child born in Denmark, cf. section 2 (1), the Department of Family Affairs must be notified of this.

Chapter 6

Administrative provisions

Home visits

35. The Regional State Administration shall offer adopters counseling services and home visits after the child has been taken home.

36. The Regional State Administration shall cooperate in drawing up follow-up reports when this is required by the authorities in Denmark or abroad.

Supervision and recourse

¹ Retsinformation is the official Danish online legal information system – www.retsinformation.dk

37. The National Board of Adoption shall supervise the Joint Councils and deal with complaints about decisions made by the Joint Councils.

(2) A complaint concerning a Joint Council decision may be submitted to the National Board of Adoption within 6 months of the Joint Council's decision. The complaint is sent to the Regional State Administration which forwards the matter to the National Board of Adoption.

38. The Department of Family Affairs shall supervise the adoption agencies, cf. however, subsection (2) hereof.

(2) The National Board of Adoption shall supervise the activities of the adoption agencies abroad and the adoption agencies' processing of matching proposals.

(3) The Department of Family Affairs and the National Board of Adoption shall deal with complaints about the adoption agencies within the supervisory areas of the Department and the Board.

(4) The Regional State Administration shall report to the National Board of Adoption any special matters that the Regional State Administration may become aware of in relation to the activities of the adoption agencies abroad or the adoption agencies' processing of matching proposals.

Payment for pre-adoption preparation courses

39. The amount to be paid for attending a pre-adoption preparation course shall be DKK 1,500 at 1 April 2000.

(2) The amount mentioned in subsection (1) hereof shall be adjusted once a year on 1 January. The Department of Family Affairs shall publish the adjusted amount every year.

(3) If the Joint Council decides pursuant to subsection (2) of section 10 that the applicant shall attend a pre-adoption preparation course, the Department of Family Affairs may determine that the amount mentioned in subsection (1) hereof shall be reduced.

Chapter 7

Commencement and transitional provisions

40. This Executive Order shall enter into force on 1 October 2009.

(2) The validity period of the approvals issued prior to 15 August 2008 is extended to 3 years. The validity period of approvals which are extended prior to 15 August 2008 is extended to 3 years. The validity period of approvals where an extension was applied for before 15 August 2008, and where the extension was granted after 15 August 2008, are likewise extended to 3 years.

(3) Executive Order No. 1367 of 12 December 2006 on the approval of adopters shall be repealed.

Ministry of Justice, 28 September 2009

Brian Mikkelsen

/Trine Hede