

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 21 August 1985

ADULT ADOPTION INFORMATION BILL

Proposed Amendments

MR BURDON, in Committee, to move the following amendments:

Clause 3: To omit *clause 3*.

Clauses 3A to 3E: To insert, immediately before *clause 4*, the following clauses:

3A. Access to identifying information to be positively permitted in some cases—(1) This subsection applies to every person adopted on or after the 27th day of October 1955 and before the 1st day of March 1986, and to no other person.

(2) Either birth parent of a person to whom **subsection (1)** of this section applies may at any time after the expiration of 17 years from the day that person was born make a written application to the Registrar-General to have the original entry of the birth of that person endorsed to the effect that that person may secure identifying information relating to the applicant.

(3) An adult adopted person to whom **subsection (1)** of this section applies may at any time make a written application to the Registrar-General to have the original entry of that person's birth endorsed to the effect that a specified birth parent, or either of that person's birth parents, may secure identifying information relating to the applicant.

3B. Endorsement of certificate by Registrar-General—

(1) On receipt of an application under **section 3A** of this Act, the Registrar-General shall cause the original entry of the birth of the adopted person concerned to be endorsed accordingly.

(2) Any person may at any time make a written application to the Registrar-General to have removed from the original entry of any person's birth any endorsement made under **subsection (1)** of this section pursuant to an application made by the person applying; and in that case the Registrar-General shall cause that endorsement to be removed.

(3) Where it appears from the records of the Registrar-General that any applicant under **section 3A (2)** of this Act is not adopted, the Registrar-General shall so notify the applicant in writing.

(4) Where an endorsement has been entered on the original entry of birth under **subsection (1)** of this section, the Registrar-General shall advise the applicant—

(a) That the endorsement has been entered; and

(b) Whether or not that entry has already been endorsed on the application of a parent or adopted person to whom that endorsement relates; and

(c) If so, of the procedure for making contact under this Act.

3C. Advice to applicants by Registrar-General—Where under **section 3B (1)** of this Act the Registrar-General enters an endorsement on an original entry of birth that already bears an endorsement so entered on the application of another person, and the Registrar-General knows the current address of that other person, the Registrar-General shall advise that other person that a further endorsement has been made by another person; but shall not disclose any identifying information except pursuant to **section 3D** of this Act.

3D. Access to original birth certificates—(1) If the original entry of the birth of an adult adopted person to whom **section 3A (1)** of this Act applies bears an endorsement entered under **section 3B (1)** of this Act from both that person and one or more of that person's birth parents, any of the persons on whose application any of those endorsements was made may apply to the Registrar-General for an original birth certificate for that adopted person.

(2) Upon receiving an application under **subsection (1)** of this section, the Registrar-General shall send to the applicant an original birth certificate of the adopted person concerned from which there have been omitted all details relating to any birth parent in respect of whom no endorsement had been made on the original entry of that person's birth, together with details of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations.

3E. Birth parent may restrict access to identifying information—(1) Either birth parent of an adopted person to whom **section 3A (1)** of this Act does not apply may at any time after the expiration of 17 years from the day that person was born request the Registrar-General to have the original entry of the birth of that person endorsed to the effect that that person is not to have access to identifying information relating to the person making a request.

(2) The following provisions shall apply to every request under **subsection (1)** of this section:

(a) The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations:

(b) That person shall indicate to the Registrar-General whether or not that person desires counselling:

(c) If that person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:

(d) If that person—

(i) Indicates that that person does not desire counselling; or

(ii) Under **paragraph (c)** of this subsection requests the Registrar-General to proceed with the original request,—

the Registrar-General shall cause the original entry of the birth of the adopted person concerned to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed.

(3) A birth parent on an adopted person may at any time request the Registrar-General to have removed from the original entry of that person's birth all endorsements under **subsection (2)** of this section relating to that parent; and in that case the Registrar-General shall cause that entry to be noted accordingly, and those endorsements shall then expire.

Clause 4: To insert in line 26 on page 4, after the word "adult", the words "person to whom **section 3A (1)** of this Act does not apply".

To omit, wherever it appears, the expression "**section 3 (2)**", and substitute, in each case, the expression "**section 3E (2)**".

To omit from *paragraphs (b) and (c) of subclause (1)* the words "was adopted before the 1st day of March 1986", and substitute in each case the words "is a person to whom **section 3A (1)** of this Act does not apply".

To omit *subclause (1) (d)*.

Clause 5: To omit from *subclause (1)* the words ", effect, and date of expiry", and substitute the words "and effect".

To omit from *subclause (1)* the expression "**section 3 (2)**", and substitute the expression "**section 3E (2)**".

Clause 6: To omit *clause 6*.

Clause 7: To insert in line 2, after the word "person", the words "to whom **section 3A (1)** of this Act does not apply and".

To omit *subclauses (3) and (4)*.

Clause 8: To insert, after *subclause (1)*, the following subclause:

(1A) Where the Director-General is satisfied that an applicant under **subsection (1)** of this section is a birth parent of the adult adopted person to whom the information sought relates, and that **section 3A (1)** of this Act applies to that person, the following provisions shall apply:

(a) Where the Director-General is satisfied that the adopted person concerned is dead, the Director-General shall so inform the applicant; and the Director-General may disclose to the applicant such information as the Director-General thinks fit relating to that person, that person's circumstances at the time of that person's death, and the circumstances of that person's death:

(b) Where the Director-General is not satisfied that the adopted person concerned is dead, the Director-General shall enquire of the Registrar-General if there is on the original entry of the birth of that person any endorsement under **section 3B (1)** of this Act relating to the applicant and entered on the application of that adopted person; and in that case the Registrar-General shall inform the Director-General whether or not there is such an entry:

(c) Where the Registrar-General informs the Director-General that there is no such endorsement on that entry, the Director-General shall give the applicant the information given to the Director-General by the Registrar-General under **paragraph (b)** of this subsection, and shall inform the applicant of the effect of the endorsement concerned:

(d) Where the Registrar-General informs the Director-General that there is such an endorsement on that entry—

(i) If the Director-General does not know the name and address of the adopted person concerned but, in the Director-General's opinion, it is probable that a social worker can ascertain identifying information relating to that person without undue effort, the Director-General shall cause a social worker to attempt to do so:

(ii) If the Director-General knows the name and address of the adopted person concerned and, in the Director-General's opinion, it would be possible for a social worker to contact that person without undue effort, the Director-General shall cause a social worker to attempt to do so and to ascertain whether or not that person is willing to have that person's name and address communicated to the applicant:

(iii) The name and address of the adopted person concerned shall not be communicated to the applicant unless that person has indicated to that social worker that that person is willing for them so to be communicated:

(iv) If the adopted person concerned has indicated to that social worker that that person is willing to have that person's name and address communicated to the applicant, the Director-General shall communicate them to the applicant and inform both the adopted person and the applicant of the effect of **section 10** of this Act.

To insert in line 7 on page 9, after the word "relates", the words "and is not satisfied that **section 3A (1)** of this Act applies to that person".

To omit from *subsection (2) (b)* the words "and, if so, when it (or if more than one the most recent of them) will expire".

EXPLANATORY NOTE

The amendments have 3 effects. First, they create a separate system for access to identifying information in relation to persons adopted between the commencement of the Adoption Act 1955 and 1 March 1986. The Bill as drafted requires adopted persons and birth parents to take positive steps to prevent access to information. The amendment continues this approach in respect of persons adopted before 27 October 1955 or on or after 1 March 1986; but for persons adopted on or after 27 October 1955 and before 1 March 1986 this approach is reversed, and there will be no access unless adopted persons and birth parents take positive steps to allow it.

Secondly, the amendment provides that the endorsements that adopted persons and birth parents may place on birth certificates are to continue indefinitely. The Bill as drafted provides for every endorsement to expire after 10 years, and this requires a person who wishes an endorsement to continue to make further endorsements as 10 year periods pass.

Thirdly, the amendment makes it impossible for a birth parent to place an endorsement on a birth certificate until 17 years have passed since the birth of the child concerned.