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Under section 153 of the *Child and Youth Well-Being Act*, the Lieutenant-Governor in Council makes the following Regulation

Citation

1 This Regulation may be cited as the *Adoption Regulation – Child and Youth Well-Being Act*.

Definitions

2 The following definitions apply in this Regulation.

“Act” means the *Child and Youth Well-Being Act*. (*Loi*)

“list of approved applicants” means a registry, maintained by the Minister, of applicants who apply to adopt a child or youth and who receive a notice of approval or notice of renewal. (*liste des demandeurs en adoption*)

“applicant” means a person who applies to adopt under subsection 82(1) of the Act. (*demandeur*)

“siblings” includes

- (a) two or more children who have the same parent or parents, and
- (b) two or more children with a significant relationship with each other who live or have lived together. (*frères ou soeurs*)

Checks

3(1) A check with the Department of Social Development, criminal record check and vulnerable sector check shall be conducted on each member of a prospective adoptive parent’s household who is 19 years of age or over before the prospective adoptive parent becomes an adoptive parent.

3(2) A check with the Department of Social Development, a criminal record check and vulnerable sector check shall be conducted only with the consent of the person to whom it relates.

3(3) The offences set out in Schedules A and B are prescribed for the purposes of this section.

3(4) Despite subsection (3), the offences set out in Schedules C and D are prescribed in the case of a person who is kin to the child or youth.

Application to adopt an adult

4(1) For the purposes of subsection 82(1) of the Act, an applicant who applies to adopt an adult shall provide the following documents:

- (a) a completed application; and
- (b) a copy of the birth certificate of the applicant as proof of age.

4(2) For the purposes of subsection 82(3) of the Act, the Minister shall forward to the applicant who applies to adopt an adult

- (a) a notice of approval, or
- (b) a notice of refusal with reasons.

4(3) The Minister shall enter the name of the applicant who has received a notice of approval on the list of approved applicants.

4(4) In the case of a proposed adoption of an adult who is less than 26 years of age and who was previously a child or youth under the Minister's care under a guardianship agree-

ment or guardianship order, the Minister may provide support to the adult for the purposes of effecting the adoption.

Application to adopt a child or youth

5(1) For the purposes of subsection 82(1) of the Act, an applicant who applies to adopt a child or youth shall provide the following documents and information:

- (a) a completed application;
- (b) a copy of the birth certificate of the applicant as proof of age;
- (c) a medical report signed by a medical practitioner or nurse practitioner attesting that the applicant is in good health and, in their opinion, there are no reasons preventing the applicant from becoming an adoptive parent;
- (d) a statement of income and major expenditures and demonstrated consistent availability of sufficient resources to provide for the basic living needs of a child or youth with any support that the applicant is eligible to receive from any source;
- (e) at least three references provided by persons not related to the applicant who recommend the applicant as an adoptive parent and who attest that the applicant's intra-family or intra-community relationships are stable, healthy and supportive; and
- (f) reports on checks with the Department of Social Development, criminal record checks and vulnerable sector checks with respect to the applicant and all members of the applicant's household in accordance with the Act and regulations.

5(2) Paragraphs (1)(c) and (d) do not apply to an applicant referred to in subsection (1) who is

- (a) the kinship caregiver of the child or youth,
- (b) the person with whom the child or youth is living and who was previously the kinship caregiver of the child or youth,
- (c) both the foster parent and kin of the child or youth, or
- (d) providing care to the child or youth in accordance with a kin custody order.

5(3) For the purposes of subsection 82(3) of the Act, the criteria with respect to an applicant who applies to adopt a child or youth are as follows:

- (a) the applicant has demonstrated the desire and physical, mental and emotional capacity, presently and long-term, to parent the child or youth in a way that promotes the well-being of the child or youth;
- (b) the applicant has successfully completed training approved by the Minister for prospective adoptive parents;
- (c) home visits to the applicant's residence have been completed;
- (d) the applicant's residence meets the standards
 - (i) in the *Fire Prevention Act* and the regulations under that Act, and
 - (ii) established by the Minister of Health under the *Public Health Act*;
- (e) the applicant's residence has sufficient space to safely accommodate and care for a child or youth;

(f) there is no evidence that the applicant or any member of the applicant's household is addicted to alcohol, a substance or a behaviour that would place the child or youth's well-being at risk;

(g) criminal record checks and vulnerable sector checks indicate that the applicant and all members of the applicant's household have not been convicted of an offence in accordance with the Act and regulations;

(h) checks with the Department of Social Development suggest that, if a child or youth were placed for adoption with the applicant, the well-being of the child or youth would not be at risk;

(i) observations made during home visits to the applicant's residence indicate that, if a child or youth were placed for adoption with the applicant, the well-being of the child or youth would not be at risk;

(j) there is no existing situation that would threaten the well-being of a child or youth in the applicant's residence; and

(k) the applicant has met all other criteria set out in this Regulation.

5(4) Paragraph (3)(b) does not apply to an applicant referred to in subsection (3) who is

(a) the kinship caregiver of the child or youth,

(b) the person with whom the child or youth is living and who was previously the kinship caregiver of the child or youth,

(c) both the foster parent and kin of the child or youth, or

(d) providing care to the child or youth in accordance with a kin custody order.

5(5) The Minister may approve an applicant who has been approved as a prospective adoptive parent by another province or territory in Canada.

Notification of application to adopt a child or youth

6(1) For the purposes of subsection 82(3) of the Act, the Minister shall forward to the applicant who applies to adopt a child or youth

- (a) a notice of approval, or
- (b) a notice of refusal with reasons.

6(2) The Minister shall enter the name of an applicant who has received a notice of approval on the list of approved applicants.

6(3) An approval expires 24 months after the date indicated on the notice of approval.

Renewal of application to adopt a child or youth

7(1) After the expiry of an approval, an applicant who applies to adopt a child or youth may renew the application on a renewal form provided by the Minister.

7(2) An applicant making an application for renewal under subsection (1) shall provide the following information:

- (a) updated reports, references and statements referred to in paragraphs 5(1)(c) to (f); and
- (b) a statement indicating whether
 - (i) the applicant or a member of the applicant's household experienced a significant change to their health or a major life event or trauma, or

(ii) there was a change to the family composition of the applicant's household after the expiry of the notice of approval.

7(3) Prior to the Minister approving an application for renewal, the Minister shall ensure that the criteria under subsection 5(3) is met.

7(4) The Minister shall forward to the applicant who makes an application for renewal

- (a) a notice of renewal, or
- (b) a notice of refusal with reasons.

7(5) The Minister shall enter the name of an applicant who has received a notice of renewal on the list of approved applicants.

7(6) A renewal expires 24 months after the date indicated on the notice of renewal.

7(7) If an applicant receives a notice of refusal, the applicant may make a subsequent application under subsection 82(1) of the Act if 12 months have passed since the date indicated on the notice of refusal.

Change in circumstances

8 During the period the approval or renewal is in effect, the applicant who applies to adopt a child or youth shall contact the Minister if

- (a) the applicant or a member of the applicant's household experiences a significant change to their health or a major life event or trauma, or
- (b) there is a change to the family composition of the applicant's household.

Placement for adoption

9(1) For the purposes of subsection 84(1) of the Act, when placing a child or youth for the purpose of adoption, the Minister shall ensure that the histories referred to in paragraph 90(4)(a) of the Act have been reviewed and all options for placement have been considered.

9(2) The Minister may give preference to placing siblings in the same prospective adoptive parent's home or in the homes of prospective adoptive parents who are members of the same immediate family.

9(3) Before placing a child or youth, the Minister shall provide information to the prospective adoptive parent with respect to the histories and the plan referred to in paragraphs 90(4)(a) and (b) of the Act.

9(4) If an application to the Court for an adoption order is made, the Minister shall provide to the prospective adoptive parent a copy of the histories and the plan referred to in paragraphs 90(4)(a) and (b) of the Act and the prospective adoptive parent shall acknowledge receipt by signing the acknowledgement form provided by the Minister.

9(5) The Minister shall conduct home visits to the home in which a child or youth is placed for the purpose of adoption until an adoption order is made.

Adoption agreement

10(1) The following definitions apply in this section.

“Amount A” means the prospective adoptive parents’ or adoptive parents’ annual net income from employment after deductions at source for premiums for employee benefits, employment insurance and Canada Pension Plan and union dues, pension contributions and income taxes, plus annual net income from self-employment, and if a prospective adoptive

parent or adoptive parent has no pension plan includes a deduction for any contribution made to a registered retirement savings plan. (*montant A*)

“Amount B” means 150% of the annual low income cut-off (before tax) adjusted for the family size, including the adopted child or youth, for urban areas of population of 30,000 to 99,999 in the most recent edition of the publication concerning low income cut-offs published by Statistics Canada under the *Statistics Act (Canada)*. (*montant B*)

“Amount D” means the contribution by the prospective adoptive parents or adoptive parents to the support or services calculated as 25% of the difference between Amount A less Amount B, according to the formula $D = 25\% \times (A - B)$. (*montant D*)

“Amount E” means the maximum annual support payment for each adopted child or youth. (*montant E*)

“child or youth with a special service need” means a child or youth of whom the Minister is or was the guardian who, based on evidence acceptable to the Minister, is recognized as being at high risk of experiencing or is experiencing emotional or behavioural distress or at high risk of experiencing or is experiencing a developmental condition. (*enfant ou jeune ayant des besoins particuliers en matière de services*)

“child or youth with a special placement need” means a child or youth of whom the Minister is or was the guardian, who is a member of a sibling group that the Minister believes should be placed together, either jointly or successively. (*enfant ou jeune ayant des besoins particuliers en matière de placement*)

10(2) The Minister may enter into an agreement with the prospective adoptive parent or adoptive parent of a child or youth with a special service need or two or more children or

youth with a special placement need under section 108.1 of the Act if the prospective adoptive parent or adoptive parent

- (a) completes an application for social services, including support, on a form provided by the Minister,
- (b) provides proof of income, and
- (c) meets the eligibility criteria set out in this section for the annual support payment.

10(3) The Minister may enter into an agreement with a prospective adoptive parent or adoptive parent referred to in subsection (2) under section 108.1 of the Act for support and the following social services:

- (a) services to be received under the health services plan under the *General Regulation - Health Services Act*;
- (b) social and recreational activities;
- (c) early learning and childcare services;
- (d) tutoring;
- (e) equipment;
- (f) transportation;
- (g) orthodontic treatment;
- (h) counselling and therapies, including, but not limited to, speech therapy, psychological therapy, occupational therapy or physical therapy;

- (i) minor home renovations; and
- (j) respite care.

10(4) A social service referred to in subsection (3) shall not be provided under an agreement if the social service is reasonably available at no cost to the prospective adoptive parent or adoptive parent from another source.

10(5) If a social service referred to in subsection (3) is reasonably available at a reduced cost to the prospective adoptive parent or adoptive parent from a source other than the Minister, the Minister shall provide support for no more than the amount of the reduced cost of the social service.

10(6) Social services and support provided under an agreement under section 108.1 of the Act may begin at the time of placement for adoption or at any time after the time of placement for adoption and may be reviewed based on the needs of the child or youth.

10(7) If the Minister enters into an agreement under section 108.1 of the Act, the Minister shall provide to the prospective adoptive parent or adoptive parent an annual support payment calculated as Amount E less Amount D.

10(8) The annual support payment may be in one or more lump sum payments or as monthly payments and shall be accounted for on request within a year after the support is provided.

Risk assessment in the case of a private placement

11 For the purposes of subsection 88(4) of the Act, a risk assessment means a report that contains the following information:

- (a) an assessment of the applicant's ability to provide for the basic living needs of the child or youth with any support that the applicant is eligible to receive from any source;
- (b) an assessment of the applicant's desire and physical, mental and emotional capacity to parent the child or youth in a way that promotes the well-being of the child or youth;
- (c) an assessment of the current state and history of the applicant and any member of the applicant's household with respect to an addiction to alcohol, a substance or a behaviour that would place the child or youth's well-being at risk; and
- (d) an assessment of the risk to the child or youth by reason of the applicant's success or failure to meet the criteria set out in paragraphs 5(3)(g), (h) and (j).

Support after adoption

12(1) In the case of the adoption of a child or youth, the Minister may provide social services and support to the child or youth with respect to their social and health needs until the child or youth reaches 19 years of age or, if the child or youth is pursuing secondary or post-secondary education, until the child or youth completes their secondary or post-secondary education or reaches 26 years of age, whichever occurs first.

12(2) In the case of the adoption of an adult who was previously a child or youth under the Minister's care under a guardianship agreement or guardianship order, who is attaining a post-secondary education and who is less than 26 years of age, the Minister may provide social services and support to the adult with respect to their social and health needs until the adult completes their post-secondary education or reaches 26 years of age, whichever occurs first.

Confidentiality

13 For the purposes of subsection 112(3) and 113(3) and paragraph 113(4)(d) of the Act, special circumstances means circumstances in which

- (a) consent is unreasonably withheld, or
- (b) the person whose consent is required cannot be located.

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SCHEDULE A**CRIMINAL CODE (CANADA)**

Section	General Description of Offence
43	Correction of child by force
151	Sexual interference
152	Invitation to sexual touching
153	Sexual exploitation
153.1	Sexual exploitation of person with disability
155	Incest
160	Bestiality
161	Order of prohibition
162	Voyeurism
162.1	Publication, etc., of an intimate image without consent
163	Obscene materials
163.1	Child pornography
167	Immoral theatrical performance
168	Mailing obscene matter
170	Parent or guardian procuring sexual activity
171	Householder permitting prohibited sexual activity
171.1	Making sexually explicit material available to child
172	Corrupting children
172.1	Luring a child
172.2	Agreement or arrangement – sexual offence against child
173	Indecent acts
175	Causing disturbance, indecent exhibition, loitering, etc.

215	Duty of persons to provide necessities
218	Abandoning child
219	Criminal negligence
220	Causing death by criminal negligence
221	Causing bodily harm by criminal negligence
229 - 240	Murder, manslaughter and infanticide
241	Counselling or aiding suicide
242	Neglect to obtain assistance in childbirth
243	Concealing body of child
244	Discharging firearm with intent
244.1	Causing bodily harm with intent – air gun or pistol
245	Administering noxious thing
246	Overcoming resistance to commission of offence
264	Criminal harassment
264.1	Uttering threats
265, 266	Assault
267	Assault with a weapon or causing bodily harm
268	Aggravated assault
269	Unlawfully causing bodily harm
269.1	Torture
270	Assaulting a peace officer
271	Sexual assault
272	Sexual assault with a weapon, threats to a third party or causing bodily harm
273	Aggravated sexual assault
273.3	Removal of child from Canada

279 - 283	Kidnapping, trafficking in persons, hostage taking, abduction
286.1	Obtaining sexual services for consideration
286.2	Material benefit from sexual services
318	Advocating genocide
319	Public incitement of hatred
322	Theft
330	Theft by person required to account
331	Theft by person holding power of attorney
336	Criminal breach of trust
343 - 346	Robbery and extortion
348	Breaking and entering with intent, committing offence or breaking out
356	Theft from mail
363	Obtaining execution of valuable security by fraud
368	Use, trafficking or possession of forged document
372	False information
374	Drawing document without authority, etc.
380	Fraud
423	Intimidation
430	Mischief
431	Attack on premises, residence or transport of internationally protected person
433 - 436.1	Arson and other fires
445 - 445.01	Animals
445.1 - 447	Cruelty to animals

SCHEDULE B

CONTROLLED DRUGS AND SUBSTANCES ACT (CANADA)

Section	General Description of Offence
5	Trafficking in substance
6	Importing and exporting
7	Production of substance

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SCHEDULE C**CRIMINAL CODE (CANADA)**

Provision	General Description of Offence
43	Correction of child by force
151	Sexual interference
152	Invitation to sexual touching
153	Sexual exploitation
153.1	Sexual exploitation of person with disability
155	Incest
160	Bestiality
162	Voyeurism
162.1	Publication, etc., of an intimate image without consent
163	Obscene materials
163.1	Child pornography
167	Immoral theatrical performance
168	Mailing obscene matter
170	Parent or guardian procuring sexual activity
171	Householder permitting prohibited sexual activity
171.1	Making sexually explicit material available to child
172	Corrupting children
172.1	Luring a child
172.2	Agreement or arrangement – sexual offence against child
173	Indecent acts
175(1)(b)	Openly exposing or exhibiting an indecent exhibition in a public place
215	Duty of persons to provide necessities

218	Abandoning child
220	Causing death by criminal negligence
221	Causing bodily harm by criminal negligence
229 - 240	Murder, manslaughter and infanticide
241	Counselling or aiding suicide
243	Concealing body of child
244	Discharging firearm with intent
244.1	Causing bodily harm with intent – air gun or pistol
245	Administering noxious thing
246	Overcoming resistance to commission of offence
264	Criminal harassment
267	Assault with a weapon or causing bodily harm
268	Aggravated assault
269	Unlawfully causing bodily harm
269.1	Torture
271	Sexual assault
272	Sexual assault with a weapon, threats to a third party or causing bodily harm
273	Aggravated sexual assault
273.3	Removal of child from Canada
279 - 283	Kidnapping, trafficking in persons, hostage taking, abduction
286.1	Obtaining sexual services for consideration
286.2	Material benefit from sexual services
318	Advocating genocide
319	Public incitement of hatred
330	Theft by person required to account

331	Theft by person holding power of attorney
336	Criminal breach of trust
343 - 346	Robbery and extortion
348	Breaking and entering with intent, committing offence or breaking out
368	Use, trafficking or possession of forged document
374	Drawing document without authority, etc.
380	Fraud
431	Attack on premises, residence or transport of internationally protected person
433 - 436.1	Arson and other fires
445.1 - 447	Cruelty to animals

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SCHEDULE D***CONTROLLED DRUGS AND SUBSTANCES ACT (CANADA)***

Section	General Description of Offence
5	Trafficking in substance
6	Importing and exporting
7	Production of substance

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