

SPECIAL ADOPTION ACT

[Effective on 5 August 2012]
[Wholly amended by Act No. 11007 of 4 August 2011]

Chapter 1 General provisions

Article 1 (Purpose)

The purpose of this Act is to set forth special matters concerning qualification requirements for the adoption of a child in need of protection, adoption procedures and matters relating to assisting such adoptions, thereby advancing the rights and welfare of adopted children.

Article 2 (Definitions)

As used herein, the following terms shall have the following meaning:

- (a) "A child" means a person under the age of 18.
- (b) "A child in need of protection" means a child in need of protection as defined in Article 3.4 of the Child Welfare Act.
- (c) "An adopted child" means a child who is adopted pursuant to this Act.
- (d) "Those responsible for supporting" means people who are responsible for family support as prescribed in Article 2.5 of the National Basic Livelihood Security Act.

Article 3 (Responsibility of the Government, etc.)

3.1 Each child has a right to be brought up safe and sound in the biological family into which he or she was born.

3.2 The Government and local governments shall provide necessary measures and assistance to ensure each child can be brought up safe and sound in his or her birth family and to provide a safe, healthy family environment to a child who cannot be brought up by his or her birth family.

3.3 All Korean citizens shall cooperate to help an adopted child grow up safe and sound.

3.4 For the sake of promoting the rights and welfare of adopted children by way of cultivating a sound adoption culture, facilitating domestic adoption of children in need of protection and helping adopted children adapt well to the new families, the government and local governments shall carry out the following functions:

- (a) Establish and implement policies and procedures for adoption;
- (b) Conduct case studies and researches on adoption practices;
- (c) Create and execute procedures relating to adoption and post-adoption services ;
- (d) Support adopted children and adoptive families;
- (e) Provide post-adoption services, like counseling and social welfare services, for a smooth transition;
- (f) Provide education and PR campaigns to raise awareness of adoption, and
- (g) Perform other necessary functions as determined by the Decree of the Ministry of Health and Welfare.

Article 4 (Primary principle of adoption)

Each adoption under this Act shall be made in the best interests of the child.

Article 5 (National Adoption Day)

5.1 To create a sound adoption culture and promote domestic adoption, May 11th of each year is designated as the National Adoption Day, and the week starting on the Day is designated as the National

Adoption Week.

5.2 The Government and local governments shall make efforts to hold campaigns and events appropriate for the purpose of the above-mentioned National Adoption Day.

Article 6 (Establishment and operation of information system)

6.1 The Government shall set up and operate an information system to help better provide post-adoption services for adopted children, etc. and to provide adoption agencies, etc. with information necessary for encouraging domestic adoption.

6.2 The operation of the above-mentioned information system may be delegated, in whole or in part, to a corporate entity or organization.

Article 7 (Priority on domestic adoption)

7.1 For each child placed for adoption, the Government and local governments shall place the foremost priority on finding adoptive parents in Korea first.

7.2 For each child put for adoption, the head of an adoption agency shall undertake actions to look for a suitable adoptive family in Korea first, as prescribed by the Ministerial Decree of the Ministry of Health and Welfare, and report the results to the Minister of Health and Welfare.

7.3 In case he or she fails to find a suitable adoptive family in Korea despite the above-mentioned efforts, the head of an adoption agency shall undertake further efforts for domestic adoption by sharing information with related agencies or organizations via the information system described in the above Article 6.

7.4 Notwithstanding the above two paragraphs 7.2 and 7.3, the head of an adoption agency may initiate a process of overseas adoption in case it could not find any suitable adoptive family in Korea.

Article 8 (Reduction of overseas adoption)

The Government shall endeavor to reduce the number of Korean children adopted abroad as part of its duties and responsibilities to protect children.

Chapter 2 Eligibility for, and effect of, adoption

Article 9 (Qualifications of adoptive children)

Under this Act, a child may be placed for adoption only when he or she is in need of protection and also meets any one of the following requirements:

- (a) A child who is separated from his or her guardian and, thus, taken into care by an institution, as prescribed in the National Basic Livelihood Security Act, (“institution”) because the person responsible for supporting the child cannot be found by either the administrative head of the applicable special city, metropolitan city or special autonomous city (the “administrative head of the si/do”) or the administrative head of the applicable si, gun or gu (the “head of the local autonomous municipality”);
- (b) A child placed in an institution or an adoption agency specified in Article 20 of this Act by his or her parents (including other immediate family when the parents are not able to express their consent to adoption because of their being deceased or for other reasons) or guardian who consented to adoption at the time of leaving the child to such care;
- (c) A child sent to institutional care by the administrative head of the si/do or the head of the local autonomous municipality because his or her parents are deprived of parental rights by the court;
- (d) A child sent to institutional care by the administrative head of the si/do or the head of the local autonomous municipality because the person responsible for supporting the child cannot be found.

Article 10 (Qualifications of adoptive parents, etc.)

10.1 Adoption under this Act is allowed only to those who meet all the following requirements:

- (a) One shall have sufficient wealth to bring up the adopted child safe and sound;
- (b) One shall accept the adopted child’s religious freedom and be able to provide the adopted child

- the upbringing and education necessary for the child to grow up as a member of society;
- (c) One shall not have a record of any crime such as child abuse, domestic violence, sexual assault or drug use or a history of alcohol and substance dependence;
 - (d) In case of a foreign national, one shall satisfy all qualification requirements prescribed in the applicable laws of his or her home country;
 - (e) One must meet other qualifications which the Ministerial Decree of the Ministry of Health and Welfare requires for the sake of the adopted child's welfare.

10.2 A person who applies for adoption shall not engage in a job which could undermine the adopted child's welfare or pose a risk of infringing upon the child's human rights.

10.3 A person who wishes to adopt a child shall complete a certain education program offered by an adoption agency, etc., as required by the Ministerial Decree of the Ministry of Health and Welfare, before he or she is legally accepted as the child's adoptive parent.

Article 11 (Family court's adoption order)

11.1 In case a person wishes to adopt a child who falls under any of sub-paragraphs of Article 9 of this Act, the person shall prepare the following documents and submit them to get the family court's order for the adoption:

- (a) A birth certificate of the child to be adopted;
- (b) A document which proves the person's fulfillment of all qualification requirements set forth in Articles 9 and 10 of this Act;
- (c) A written consent to adoption required in Articles 12 and 13 of this Act; and
- (d) Other documents as required by the Ministerial Decree of the Ministry of Health and Welfare for the sake of the child's welfare.

11.2 The family court may decide not to grant order for the adoption requested as in the above paragraph for the sake of the child's welfare, taking into consideration the prospective adoptive parents' main motives for adoption, child-rearing ability and other circumstances.

11.3 With regard to the documents required for the family court's order in the first paragraph, the organization appointed by the Presidential Decree checks and confirms what information is needed for the preparation of such documents and then issues them. Matters necessary pertaining to the preparation of such documents shall be determined by the Ministerial Decree of the Ministry of Health and Welfare.

11.4 Matters necessary pertaining to a petition for the family court's grant and the family court's deliberation and order shall be determined by the rules of the Supreme Court.

Article 12 (Consent to adoption)

12.1 In case a person wishes to adopt a child who falls under any of sub-paragraphs of Article 9 of this Act, the person shall obtain consent of the child's birth parents. The consent requirement, however, does not apply to any of the following cases:

- (a) Where the birth parents are deprived of parental rights by court; or
- (b) Where it is impossible to obtain the consent of the birth parents for such reasons as their unknown whereabouts, etc.

12.2 In case it is impossible to obtain the consent of the biological parents due to reasons as specified in the above sub-paragraphs, consent of the child's guardian shall be obtained.

12.3 In case a person wishes to adopt a child who falls under the second sub-paragraph of Article 9 of this Act, the person may be deemed to have obtained the above-mentioned parental consent because consent to adoption given at the time of leaving the child to care for protection replaces consent to adoption.

12.4 In case a person wishes to adopt a child at age of 13 or above, the person shall obtain consent of the child as well as consent of his or her parents or guardian as prescribed in Sub-paragraphs 1 and 2 of this Article.

12.5 Consent prescribed in Paragraphs 1 through 4 of this Article may be withdrawn before the family court grants order for an adoption request made pursuant to the first paragraph of Article 11 of this Act.

12.6 Consent prescribed in Paragraphs 1 through 4 of this Article or withdrawal of consent prescribed in Sub-paragraph 5 of this Article shall be given in written, and matters necessary in relation to such consent shall be determined by the Ministerial Decree of the Ministry of Health and Welfare.

Article 13 (Consent requirements, etc.)

13.1 Consent for adoption specified in the first paragraph of Article 12 of this Act shall not be given no earlier than one week after the birth of the child concerned.

13.2 Any money or an interest in property or any other kind of consideration shall not be paid, received or promised in return for providing consent to an adoption.

13.3 For birth parents requesting adoption, an adoption agency shall provide them sufficient counseling on what benefits and subsidies they could receive in case they raise their birth child, what legal effects an adoption could have on their parental rights, etc. before it undertakes to obtain their consent for the sake of an informed consent. Matters, including what should be covered by such counseling, shall be governed by the Ministerial Decree of the Ministry of Health and Welfare.

13.4 In a case falling under the fourth paragraph of Article 12 of this Act, an adoption agency shall provide a adoptive child sufficient counseling as to what legal effects his or her consent to adoption could bring about, etc. to help the child make an informed consent. Matters, including what should be covered by such counseling, shall be governed by the Ministerial Decree of the Ministry of Health and Welfare.

Article 14 (Effect of adoption)

A child adopted under this Act may have the same legal status as adopted through full adoption as prescribed in the Civil Law.

Article 15 (Effective date of adoption)

An adoption made under this Act comes into effect at the time when the Family Court renders a ruling to proceed the adoption. When such an adoption order is made, the adopting parents or the adopted child shall register the adoption, along with a written order of the Family Court attached thereto, as determined by the Act on the Registration, etc. of Family Relationship.

Article 16 (Revocation of adoption)

16.1 The biological father or mother of an adopted child may file a petition to revoke the adoption of the child in case the child was adopted without his or her consent required in the second sub-paragraph of Paragraph 1 of Article 12 of this Act for reasons not attributable to him or her. And such petition shall be filed with the Family Court within six months from the date when he or she becomes aware of the adoption of the child.

16.2 At the time when the Family Court makes a final decision on a petition filed by birth parents for revocation of adoption or when its ruling thereon comes into effect, the Family Court shall give notice, with no delay, to the local autonomous municipality in its jurisdiction.

Article 17 (Dissolution of adoption)

17.1 Adopted parents, an adopted child or a prosecutor may file a petition with the Family Court for dissolution of adoption in any one of the following cases:

- (a) Where the adopted parent(s) abuses, abandons or neglects the adopted child or poses significant harm to the child's welfare; or
- (b) Where it is no longer possible to continue the adoptive relationship because of immoral acts committed by the adopted child against the adoptive parents.

17.2 In case a petition for dissolution of adoption is filed in relation to an adopted child aged 13 or over, the Family Court shall listen to, and respect, the child's opinion.

17.3 At the time when the Family Court makes a final decision on a petition filed for dissolution of adoption or when its ruling thereon comes into effect, the Family Court shall give notice, with no delay, to the local autonomous municipality in its jurisdiction.

Article 18 (Overseas adoption by a foreign national residing in Korea)

A foreign national who wishes to adopt a Korean child who falls under any of sub-paragraphs of Article 9 of this Act shall prepare the following documents pursuant to the applicable Ministerial Decree of the Ministry of Health and Welfare, and submit them to the Family Court having jurisdiction over him or her to seek the Court's adoption order with his or her guardian:

- (a) A birth certificate of the child to be adopted;
- (b) A document which proves the child's fulfillment of any of the qualification requirements set forth in Article 9 of this Act;
- (c) A document which proves his or her fulfillment of the qualification requirements set forth in Paragraph 1 of Article 10 of this Act;
- (d) A written consent to adoption required in Articles 12 and 13 of this Act.

Article 19 (Overseas adoption by a foreign national residing overseas)

19.1 In case the head of an adoption agency is requested by a foreign national residing overseas to arrange the adoption of a Korean child and wishes to proceed with the overseas adoption, he or she shall file a petition with the Family Court for an adoption order with a letter of emigration order for the child issued by the Minister of Health and Welfare attached to the petition letter.

19.2 In case a foreign national residing overseas wishes to adopt a child from Korea, the foreign national shall pursue the adoption via an adoption agency.

19.3 In case a child adopted by a foreign couple emigrates to a foreign jurisdiction with the emigration order required in the first paragraph and acquires the citizenship of the receiving country, the applicable adoption agency shall give notice, with no delay, to the Minister of Justice as prescribed by the Ministerial Decree of the Ministry of Health and Welfare, and the Minister of Justice shall notify, in his or her sole discretion, the public agency in charge of family registration affairs in the jurisdiction having authority over the child to revoke the child's Korean citizenship.

19.4 The Minister of Health and Welfare may deny a request for emigration permission made pursuant to the first paragraph of this Article in any one of the following cases:

- (a) Where the child for an overseas adoption is a missing child or otherwise vulnerable child as specified in the Ministerial Decree of the Ministry of Health and Welfare;
- (b) Where a convention on overseas adoption has not been formed with the receiving country or its accredited adoption agencies ; or
- (c) Where the foreign adoptive parents are the nationals of a country at war, or in an adversarial relations, with Korea.

Chapter 3 Adoption agencies and the Korea Central Adoption Resources

Article 20 (An adoption agency)

20.1 A person who wishes to open and run an adoption agency shall obtain the approval of the Minister of Health and Welfare to run a not-for-profit social welfare corporation prescribed in the Social Welfare Services Act. Notwithstanding the foregoing, a person who wishes to arrange domestic adoptions only shall obtain the approval of the administrative head of the si/do thereto.

20.2 In case a person who is allowed to run an adoption agency as prescribed in the above paragraph wishes to change his or her agency's aspects which are determined to be important by the Presidential Decree, the person shall report such changes.

20.3 A foreign national may not serve as the head of an adoption agency in Korea

20.4 The head and other employees of an adoption agency shall complete regular education courses required by the Ministerial Decree of the Ministry of Health and Welfare for the purpose of the protection of the human rights of adopted children and the establishment of a sound adoption culture.

20.5 In case the head of an adoption agency enters into an agreement on adoption affairs with the foreign nation which wishes to adopt a child from Korea or any of its accredited adoption agencies, he or she shall

report to the Minister of Health and Welfare. In the case of such formation of an agreement on adoption, what should be dealt with in the agreement shall be determined by the Presidential Decree.

20.6 Matters like requirements for the facilities and workers of an adoption agency, approval to open an adoption agency, report of changes and other necessary aspects shall be governed by the Ministerial Decree of the Ministry of Health and Welfare.

Article 21 (Obligations of an adoption agency)

21.1 The head of an adoption agency shall protect the rights and interests of a child placed in its care till the child is adopted, and in case such child's parents are unknown, he or she shall make all reasonable efforts to locate the child's parents or other direct lineal ascendants.

21.2 When the head of an adoption agency arranges an adoption, he or she shall do background checks on the adopting parents to ensure that they meet the qualifications as set forth in Article 10 of this Act.

21.3 The head of an adoption agency shall provide adoptive parents education on child rearing before their adoption is legally established. Once an adoption is legally established, he or she shall deliver the child, his or her records, etc. to the adoptive parents as required by the Ministerial Decree of the Ministry of Health and Welfare, and report the hand-over of the adopted child to the governor of the special autonomous province, the major of the si or gun and the head of the district office.

21.4 For the sake of efficiency in adoption procedures and collaboration between adoption agencies, the head of an adoption agency shall provide the Korea Adoption Services(the "KAS"), as defined in Article 26 of this Act, with its information on adoptive children and their birth parents and family, as required by the Ministerial Decree of the Ministry of Health and Welfare.

21.5 The head of an adoption agency shall keep a record of its adoption services and relevant matters as required by the Ministerial Decree of the Ministry of Health and Welfare. Such record may be kept in either hard copy or electronic format.

21.6 The above-mentioned record of adoption services shall be retained permanently to enable post-adoption services for adopted children.

21.7 The scope and details of information as required to be provided to the KAS in the fourth paragraph of this Article as well as matters necessary for retaining adoption records and electronic records as required in the fifth paragraph of this Article shall be determined by the Ministerial Decree of the Ministry of Health and Welfare.

Article 22 (Guardian obligation of the Head of an adoption agency)

22.1 When a child is placed in an adoption agency for adoption, the head of the adoption agency shall become a guardian of the child from the date when the child is taken to the agency either by his or her parents or by the institution which takes the custody of the child till the adoption process is completed. The foregoing, however, does not apply where the court has already appointed a guardian for the child.

22.2 When a child's parents or guardian places him or her in an adoption agency for adoption as described in the above paragraph, they lose their custodial rights over the child. Notwithstanding the foregoing, where such parents or guardian later revoke their consent to the child's adoption as in Paragraph 5 of Article 12 of this Act, they may gain back the lost custodial rights over the child.

Article 23 (Creation of a place of family registry)

Where a child who has never been registered in any family registry is placed in an adoption agency for adoption, the head of the agency shall create a family registry for the child.

Article 24 (Protection of children in an unfavorable condition for adoption)

24.1 The head of an adoption agency shall report to the administrative head of the si/do or the head of the local autonomous municipality where the agency takes the custody of any of the following children:

- (a) A child who is taken into the agency for protective custody, as in Paragraph 2 of Article 9 of this Act, and is not in a favorable condition for adoption; or
- (b) A child whose adoption has been revoked or dissolved by a court order and the guardian

requests the agency to take care of him or her.

24.2 Upon receipt of such report made by an adoption agency pursuant to the above paragraph, the administrative head of the si/do or the head of the local autonomous municipality shall take measures to protect the child concerned, with no delay, as prescribed in Article 15 of the Child Welfare Act.

Article 25 (Post-adoption services)

25.1 Once an adoption is legally established, the head of the adoption agency shall provide post-adoption services, as prescribed below, during the first year following the legal establishment of an adoption to help the adoptive parents and adopted child adjust well to their new adoptive life:

- (a) Monitor how well the adopted parents and adopted child adjust to the new familial relationship and provide services necessary for such monitoring;
- (b) Provide the adopting family with education on child rearing; and
- (c) Open a channel of frequent counseling for the adopting family and assign a counselor for the family.

The foregoing, however, does not apply to overseas adoptions.

25.2 In case of an overseas adoption, the head of an adoption agency shall check, in cooperation with a state-run agency of the receiving country whether the child concerned acquires the citizenship of the receiving country and report the result to the Minister of Health and Welfare via the KAS president as prescribed in Article 26 of this Act.

25.3 For children adopted abroad through an adoption agency, the agency's head shall hold a program to arrange Motherland visit or other programs as specified in the Presidential Decree.

Article 26 (Establishment of KAS)

26.1 The Minister of Health and Welfare shall establish and operate the KAS for the sake of the promotion of domestic adoption and post-adoption services.

26.2 The KAS shall be established and operated as a non-profit foundation.

26.3 In order for the incorporation of the KAS, its articles of incorporation shall be prepared and approved by the Ministry of Health and Welfare. The same applies for a change in the articles of incorporation.

26.4 The KAS shall carry out the following duties:

- (a) Operate an integrated database of adopted children and adoptive parents, and any database necessary for locating biological parents ;
- (b) Build a database on adopted children and share it with relevant agencies and organizations;
- (c) Conduct research on adoption policies and services at home and abroad;
- (d) Engage in international exchange in the area of adoption;
- (e) Perform other services designated by the Minister of Health and Welfare.

26.5 With regard to the KAS, matters not provided herein shall be governed by the Civil Law's provisions on a non-profit foundation.

Article 27 (KAS's officers, directors and employees)

27.1 The KAS shall have, in place, up to nine directors, including one head, and one internal audit officer.

27.2 The representative director of the KAS shall be appointed by the Minister of Health and Welfare.

27.3 The president of the KAS represents it and takes overall charge of all matters pertaining to its operations.

27.4 The representative director of the KAS also serves as its president.

27.5 Any matters necessary pertaining to appointment, tenure, etc. of its director, internal audit officer and employees shall be determined by the Ministerial Decree of the Ministry of Health and Welfare.

Article 28 (Financial support for the KAS)

28.1 The Government may provide financial resources to establish and operate the KAS to the maximum extent of its available resources allocated for the purpose.

28.2 Any matters necessary pertaining to the KAS's use of the above-mentioned government support shall be governed by the Act on the Budgeting and Management of Subsidies.

Article 29 (Request for cooperation)

29.1 The KAS president may request public agencies and organizations, adoption agencies, etc. to provide certain information if such information is necessary for the KAS to carry out its duties. In such case, the requested party shall provide the information to the KAS unless it is not able to do so because of any reason beyond its reasonable control.

29.2 Any information provided to the KAS pursuant to the above paragraph shall not be used for purposes other than those specified in Paragraph 4 of Article 26 of this Act.

Article 30 (Direction and supervision over the KAS)

30.1 The Minister of Health and Welfare shall take charge of directing and supervising the KAS.

30.2 The Minister of Health and Welfare may order the KAS to report matters necessary in relation to its operations, accounting and finance or have official concerned inspect the KAS's books, records, documents, and facilities and goods.

30.3 A public official who conducts an inspection of the KAS pursuant to the above paragraph shall present proof of his inspection right to the KAS personnel concerned.

30.4 The Minister of Health and Welfare may render a correction order or take other necessary actions when such order or actions are deemed necessary given the result of the report and inspection specified in the second paragraph of this Article.

Chapter 4 Welfare support for adopted children, etc.

Article 31 (Escorting the adopted child)

31.1 Upon an adoption order granted by the court, the child's parents or the adoption agency taking the custody of the child shall deliver the child to the adoptive parents.

31.2 In case of an overseas adoption, the above-mentioned delivery of the adoptee shall take place in Korea unless it is impossible for reasons accepted by the Ministerial Decree of the Ministry of Health and Welfare.

Article 32 (Adoption fee and government subsidy)

32.1 An adoption agency as defined in the first paragraph of Article 20 of this Act may charge adoptive parents the whole, or part of, the actual costs arising out of its arrangement services, as set forth in the Presidential Decree.

32.2 The Government and local governments may provide adoptive parents a subsidy at the amount of the whole or part of the actual costs incurred out of the arrangement of adoption as in the above paragraph.

Article 33 (Prevention of any child from ending up in need of protection)

As part of their efforts to ensure that each child is brought up safe and sound in his or her birth family, the Government and local governments shall seek measures necessary to prevent a child from ending up in need of protection in the first place.

Article 34 (Social welfare services)

For parents who adopt a child through an adoption agency, the Government and local government shall provide necessary parenting counseling, access to social welfare centers and other social welfare services to help them bring up the adopted child safe and sound.

Article 35 (Provision of childcare assistance and subsidy)

35.1 As part of its efforts to ensure that each child, or child with special needs, adopted through an adoption agency grow up safe and sound, the Government and local governments may provide childcare subsidy, medical expense, child education expense and other types of childcare assistance to the extent set forth by the Presidential Decree if such assistance and subsidies are deemed necessary.

35.2 The Government and local governments may provide an adoption agency operating expense subsidies and foster care subsidies in addition to cash and in-kind benefits provided under the National Basic Livelihood Security Act.

35.3 Any matters necessary pertaining to the childcare assistances and subsidies prescribed in the first paragraph of this Article and the operating expense subsidies and foster care subsidies prescribed in the second paragraph of this Article shall be governed by the Presidential Decree.

Chapter 5 Disclosure of information on adopted children, etc

Article 36 (Disclosure, etc. of adoption information)

36.1 A person who is adopted under this Act may request the release of their adoption records held by the KAS or adoption agencies. In case a request for information disclosure is made by a minor adoptee, his or her birth parents' prior consent shall be obtained.

36.2 In case a request for disclosure of adoption records is made pursuant to the above paragraph, the KAS president or the head of the adoption agency shall disclose the requested information with the consent of the birth parents of the child concerned. Notwithstanding the foregoing, in case the birth parents of the child concerned do not consent to such disclosure, the requested information, excluding their identifying information, shall be disclosed.

36.3 Despite the foregoing, information may be disclosed if a special reason such as a medical problem, etc. requires so though the birth parents are not able to express their consent because of their being deceased or for other reasons.

36.4 The scope of information disclosure set forth in the above three paragraphs, application process for such information disclosure and other necessary matters shall be determined by the Presidential Decree.

Article 37 (Confidentiality)

Those who are working for, or worked for, the KAS or an adoption agency shall not disclose any confidential information obtained in the course of performing their duties. The foregoing confidentiality requirement, however, does not apply to information disclosed pursuant to Article 36 of this Act.

Chapter 6 Direction and supervision, etc.

Article 38 (Direction and supervision, etc.)

38.1 The Minister of Health and Welfare, the administrative head of the si/do or the head of the local autonomous municipality direct and supervise those who run an adoption agency in the matter of their respective responsibility, and may order such individuals to report the matter concerned or submit related documents or may have their officials to visit the office or facilities of the agency for inspection or interview.

38.2 A public official who conducts an inspection or interview pursuant to the above paragraph shall present proof of his inspection or interview right to the agency personnel concerned.

Article 39 (Cancellation, etc. of permission for adoption services)

39.1 The Minister of Health and Welfare or the administrative head of the si/do may order a suspension of business for up to six months or cancel the permission granted to an adoption agency pursuant to

Paragraph 1 of Article 20 of this Act in case an adoption agency falls under any one of the following cases:

- (a) When its facilities and workers do not meet the requirements set forth in Paragraph 6 of Article 20 of this Act;
- (b) When it commits an act that undermines the rights and interests of children placed for adoption in breach of Paragraphs 3 and 4 of Article 13 or Paragraph 1 of Article 21 of this Act;
- (c) When it fails to fulfill its reporting obligation, as prescribed in Article 38 of this Act, without due cause, makes a false report, or deny, interrupt or avoid inspection; or
- (d) When it violates this Act or any order rendered on the ground of this Act.

39.2 Detailed criteria for an administrative measure to be taken against the above-mentioned cases shall be determined by the Ministerial Decree of the Ministry of Health and Welfare depending on the rationale for such administrative measure, the severity of condition violated, etc.

Chapter 7 Supplementary provisions

Article 40 (Hearing)

The Minister of Health and Welfare or the administrative head of the si/do shall hold a hearing before they decide to cancel a permission granted to an adoption agency pursuant to Paragraph 1 of Article 39.

Article 41 (Delegation of authority)

The authority given to the Minister of Health and Welfare or the administrative head of the si/do under this Act may be delegated in part to the administrative head of the si/do or the head of the local autonomous municipality respectively as prescribed by the Presidential Decree.

Article 42 (Relation of this Act to the Civil Law)

Any matters pertaining to adoption, other than those provided herein, shall be governed by the Civil Law.

Article 43 (Recognition of the KAS employees as a government official for penalty imposition)

Where any KAS employees become subject to a penalty under Articles 129 through 132 of the Criminal Code, such penalty shall be applied as if they were a government official.

Chapter 8 Penalties

Article 44 (Penalties)

44.1 A person who falls under any one of the following sub-paragraphs is subject to a maximum of three years in prison or KRW20 million in fines:.

- (a) A person who adopts a child without a court order required in Articles 11, 18 or 19 of this Act;
- (b) A person who arranges an adoption without accreditation required in Paragraph 1 of Article 20 of this Act; or
- (c) A person who breaches Article 37 of this Act by disclosing confidential information obtained in the course of performing his or her duties without due cause.

44.2 In case a person makes a change, without order, to his or her adoption agency's important aspects without any report required in Paragraph 2 of Article 20 of this Act, the person is subject to a maximum of one year in prison or KRW3 million in fines.

Article 45 (Joint penal responsibility)

In case a representative of a corporate entity, an agent of an corporate entity or an individual, an employer of the individual or an employee of the entity commit an act of violation as set forth in Article 44 of this Act in relation to their respective duties at the entity or their own work, the applicable fine is imposed also on the entity or the individual as well as the perpetrator. The foregoing, however, does not apply where the entity or individual has exercised a significant amount of care and supervision over the work concerned to prevent such violation.

ADDENDUM

<Act No. 11007 of 4 August 2011>

Article 1 (Enforcement date)

This Act shall come into effect one year from the date of its promulgation.

Article 2 (Transitional measures concerning the KAS)

2.1 The Korea Central Adoption Resources, a non-profit foundation established before the enforcement date of this Act, shall be deemed the KAS set forth in this Act.

2.2 Any and all of the properties, rights and obligations of the Korea Central Adoption Resources as of the effective date of this Act shall be inherited in full by the KAS.

2.3 The name of the Korea Central Adoption Resources recorded in registries or other public records as of the effective date of this Act shall be deemed to refer to the KAS.

2.4 The value of the Korea Central Adoption Resources' properties inherited in full by the KAS pursuant to the second paragraph of this Article shall be recorded as their book value as of the day immediately preceding the effective date of this Act.

2.5 Any and all employees of the Korea Central Adoption Resources as of the effective date of this Act shall be deemed to be an employee of the KAS.

Article 3 (Amendment of related laws)

3.1 The Special Act on Improvement of Public Health and Welfare for Agricultural and Fishing Village Residents shall be amended in part as follows:

Paragraph 3 of Article 23 of the Act:

Article 3. Families adopting a child in need of protection as set forth in Paragraph 2 of Article 2 of the Special Adoption Act

3.2 The Social Welfare Services Act shall be amended in part as follows:

Sub-paragraph (j) of Paragraph 1 of Article 2 of the Act:

(j) the Special Adoption Act

3.3 The Medical Payment Act shall be amended in part as follows:

Sub-paragraph (d) of Paragraph 1 of Article 3 of the Act:

(d) a child under age 18 who is adopted domestically under the Special Adoption Act

3.4

④ The Special Act on the Establishment of Jeju Special Self-Governing Province and the Development of Free International Cities shall be amended in part as follows:

In the title of Article 334 of the Act, "adoption promotion and procedures" shall be amended to "adoption", and in the same Article, the wording of "Articles 5.1.(f), 10.5, 19.2 and 23.3 of the Special Act Relating to Adoption Promotion and Procedure" shall be amended to "Articles 10.1.(e), 20.5, 20.6, 35.3 and 39.2 of the Special Adoption Act".

Article 4 (Relation of this Act to former Act)

In case former Act refers to the existing Special Act Relating to Adoption Promotion and Procedure or its provisions as of the effective date of this Act and this Act has the similar provisions to the cited provisions,

the provisions of this Act shall be deemed to replace the cited provisions and such references shall be deemed as if they had been made to this Act or its provisions.