



Handbook For District Magistrates (DMs)

On **Adoption**

Juvenile Justice (Care & Protection of Children) Amendment Act, 2021
& Adoption Regulations, 2022



Child Adoption

Is bliss, having a child is the greatest joy a parent can have.

The best form of non-institutional alternative care as it provides permanent family environment for the child.



Permits the formation of a parent-child bond amongst people who have neither met before nor are genetically connected.

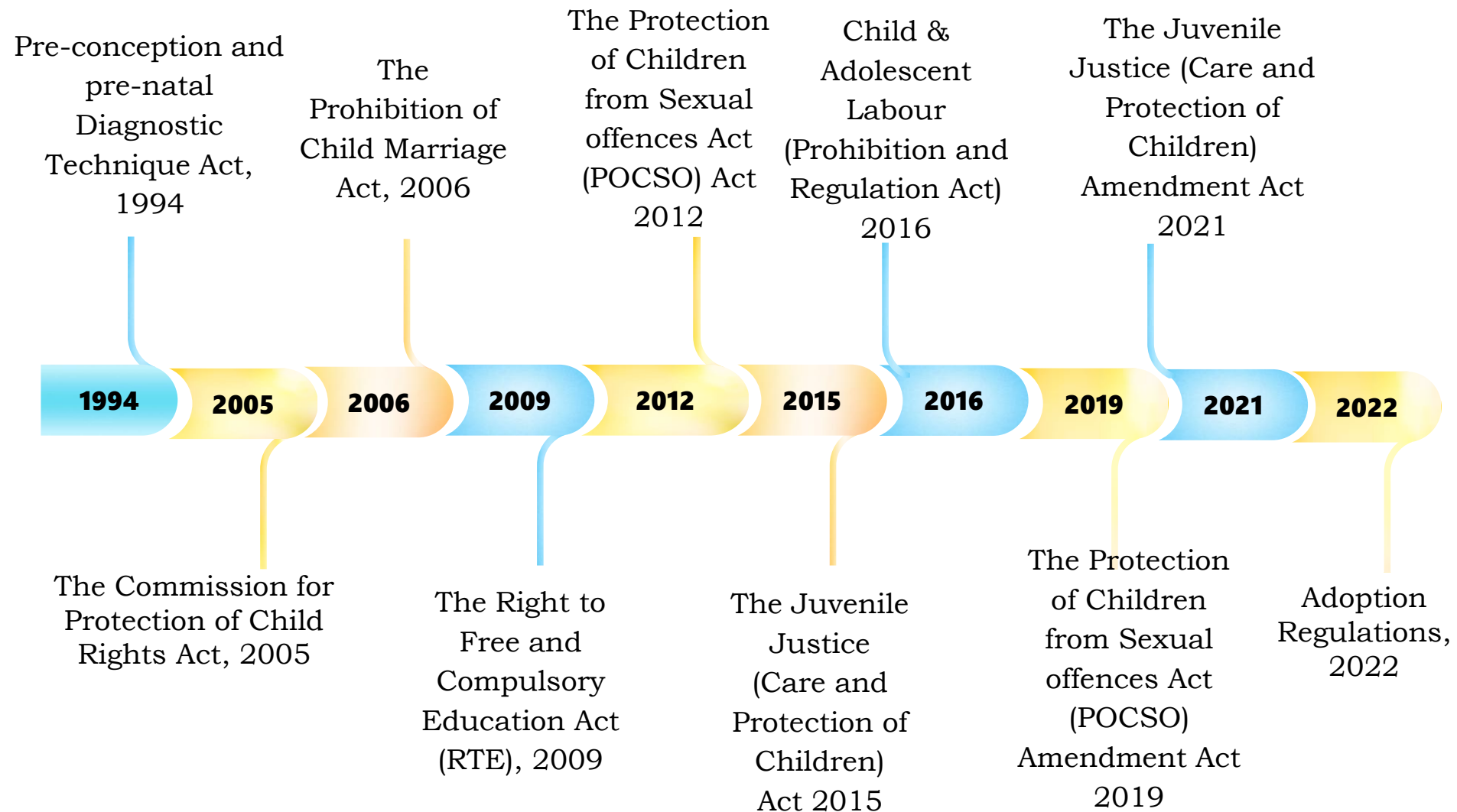
May be a wonderful choice not only for single parents and childless couples but also for children, i.e. the children who are homeless.

Central Adoption Resource Authority (CARA)

- Autonomous and Statutory body of the MWCD
- Functions as the Nodal Body for the adoption of children in the country
- It acts as a centralised digital database of adoptable children and prospective adoptive parents.



Legislative Measures for Children in India



Laws Governing Adoption

Hindu Adoption and Maintenance Act, 1956 (HAMA)

Act pertains only to Hindus, wherein a Hindu parent/guardian can give a child in adoption to another Hindu parent (Sec 2 of HAMA).

01



02

Juvenile Justice (Care & Protection of Children) Amendment Act, 2021 (JJ Act)

Any person irrespective of his/her religion can adopt an orphan, abandoned or surrendered child.

JJ Model Rules, 2016 & Adoption Regulations, 2017

JJ Model Rules, 2022 & Adoption Regulations, 2022

Convention on Protection of Children and Co-operation in respect of Inter Country Adoption (Hague Convention)

Protects children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad. It also seeks to prevent the abduction, the sale of, or traffic in children. India became signatory to this convention in the year 2003.



Need for Adoption Regulations 2022

The Juvenile Justice
(Care And Protection of Children)
Amendment Rules, 2022.

Recently passed
Juvenile Justice
(Care and Protection of
Children) Amendment
Act, 2021, to strengthen
and streamline the
provisions for protection
and adoption of
children.



Adoption (Amendment)
Regulations, 2021
provides procedure for
children adopted under
the Hindu Adoption
and Maintenance Act,
1956, by parents who
desire to relocate child
abroad.

Post follow up of
Inter-country adoption under
Hindu Adoption and Maintenance Act,
1956.

Salient Aspects of Adoption

Hindu Adoption and Maintenance Act, 1956



Juvenile Justice (Care and Protection) Act, 2021

Only for Hindus

Same sex children cannot be adopted if already have a son/daughter, or grand son/ grand daughter or great grand son/ great grand daughter living at the time of the adoption

Children only up to 15 years of age can be adopted

Registered deed finalizes adoption, court permission required in some cases

An OAS child in SAA/CCI belongs to the State cannot be adopted under HAMA. Such application should not be entertained by the courts.

Suitability of the PAPs, sourcing of the child and the post-adoption follow up cannot be ascertained/ensured for adoption under HAMA

Courts may require services of Scrutiny Committee in case declaratory suit is filed for adoptions under HAMA

Any person, irrespective of religion can adopt a child
No such conditions

Children up to 18 years of age can be adopted

Adoption order finalizes adoption, deed is not required

JJ Act provide provisions for rehabilitation of OAS children in the SAA/CCI and also Relative/Step Parent Adoptions can be processed under the Act.

Welfare & Best Interests of the Child is ensured due to the built in mechanisms in the JJ Act

There is no requirement of scrutiny and the same has not been envisaged under JJ Act due to the built in scrutiny mechanisms.

Adoption Regulations, 2022 & CARA

According to Section 2(2) of The Juvenile Justice (Care and Protection of Children) Amendment Act, 2021

Adoption means

“the process through which the child is permanently separated from his/her biological parents and becomes the lawful child of his/her adoptive parents with all the rights privileged and responsibilities that are attached to a biological child”.

CARA is designated as the Central Authority as defined under the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption (1993) since 2003.

As per Section 68 (c) of the Juvenile Justice (Care and Protection of Children) Act, 2021, Adoption Regulations, 2022 have been framed by CARA keeping in mind the issues and challenges faced by stake holders including the Adoption Agencies & Prospective Adoptive Parents (PAPs).



Central Adoption Resource
Authority

Basic Principle

Child's best interest shall be of paramount consideration, while processing any Adoption Placement.

CARA is mandated to monitor and regulate in-country and inter-country adoptions through Child Adoption Resource Information & Guidance System(CARINGS),an online platform to bring transparency in the adoption system and also curtailing delays at various level.

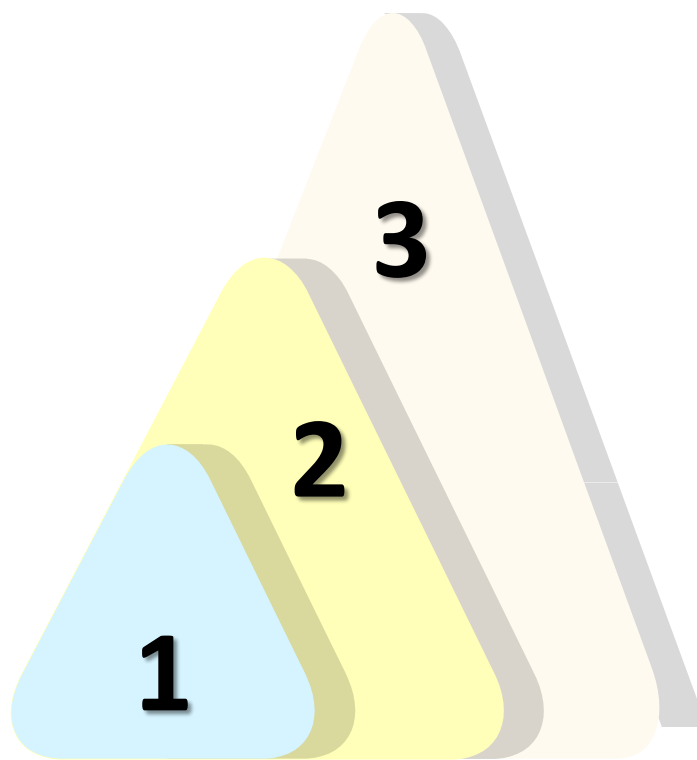
Fundamental Principal Governing Adoptions of Children from India

Under the JJ Act, 2021

All decisions regarding the child shall be based on **Principle of Best Interest** to help the child to develop full potential.

The **primary responsibility** of care, nurture and protection of the child shall be that of the **biological family or adoptive or foster parents**, as the case may be.

Principle of Institutional Care as a measure of last resort for the child after making a reasonable inquiry



Reg 3 of Adoption Regulations 2022

The child's best interests shall be of paramount consideration.

Preference shall be given to place the child in adoption with Indian citizens and in his/her own socio-cultural environment.



All **adoptions shall be registered on CARINGS** and the confidentiality shall be maintained by the Authority.

Child Adoption Resource Information & Guidance System (CARINGS)



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  **Central Adoption Resource Authority**
Ministry of Women & Child Development | Government of India

The interaction *every citizen* is looking forward to
PARIKSHA PE CHARCHA 2022
1st April 2022 11 AM
Talkatora Stadium, Delhi

Child Adoption Resource Information and Guidance System (CARINGS) 3.1

All Stakeholders (AFAA, SARA, DCPU, SAA) are requested to update their name and contact details in CARINGS.

CARINGS

Child Adoption Resource Information & Guidance System (CARINGS) is an online platform, building bridges and creating links through a robust web-based management system designed to bring transparency in the adoption system and also curtailing delays at various level.

Forgot Password / For any help mail us at ::
carahdesk@wcd.nic.in

District Child Protection Unit (DCPU) ::
[DCPU Registration](#)

SIGN IN


User Type

Enter User Id

Enter Password

Enter Security Pin

LOGIN



Major Stakeholders of CARINGS (As on 21st April, 2022)



▶ Specialized Adoption Agencies (SAAs)

478

▶ State Adoption Resource Agency (SARA)

34

▶ District Child Protection Units (DCPUs)

709

▶ Child Care Institutions (CCIs)

5907

65

Authorized Foreign Adoption Agency(AFAA) ▶

44

Central Authority ▶

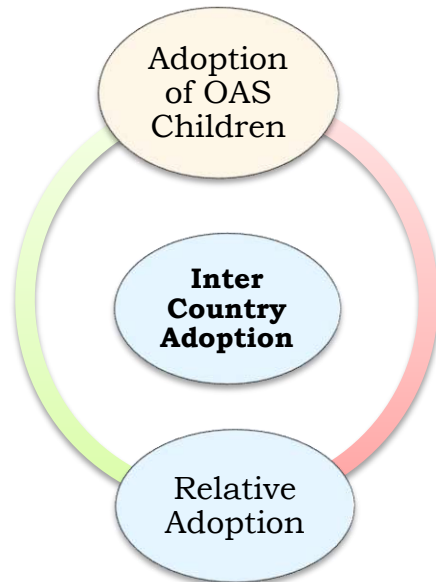
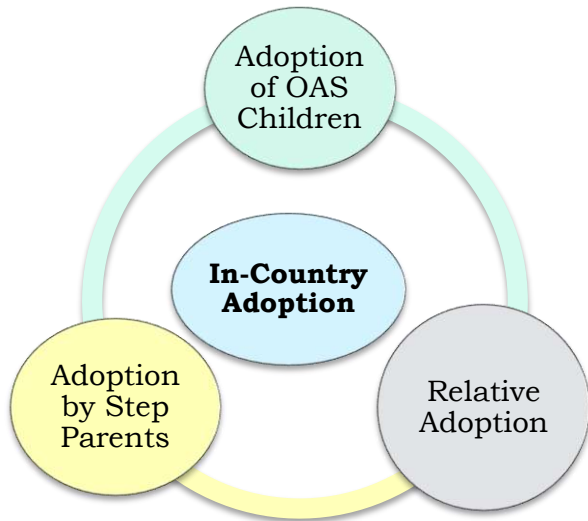
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Indian Diplomatic Mission(IDM) ▶

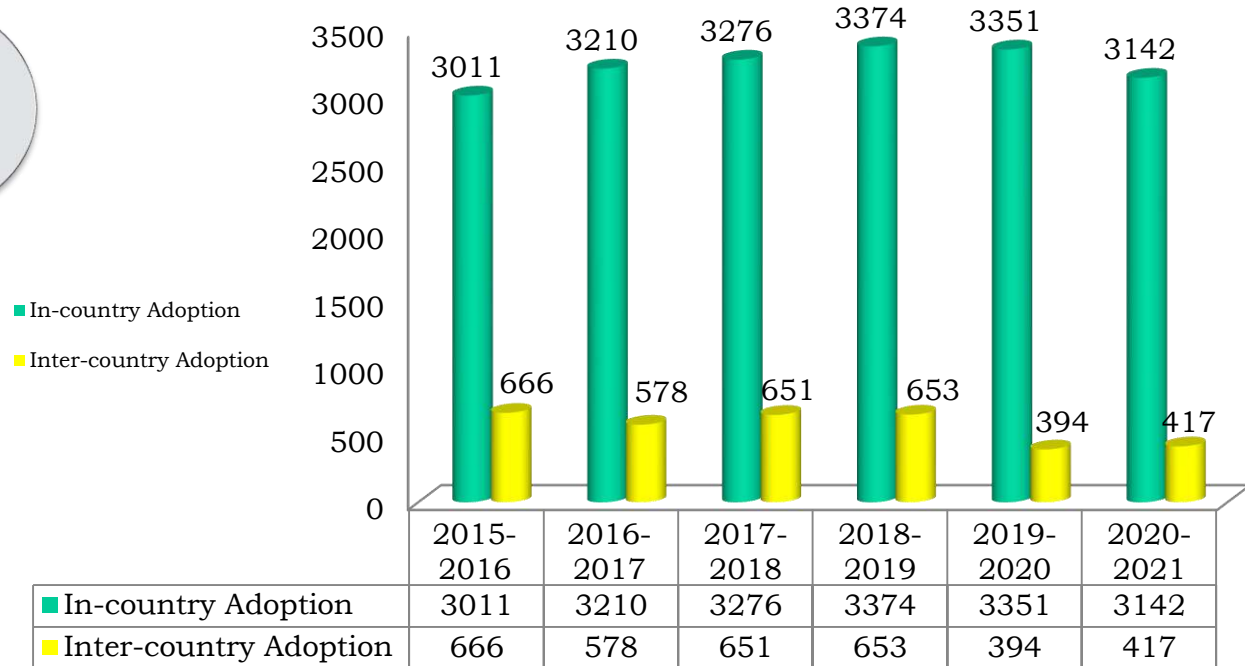


Types of Adoption

Under JJ Act 2021 & AR 2022



Adoption Statistics as on March, 2021



OAS: Orphan Abandoned & Surrendered Children

Procedure for Declaring a Child Legally Free for Adoption *Juvenile Justice (Care and Protection) Act, 2021*

Adoption to be resorted to as per the provisions of the Act, the Rules and the Adoption Regulations framed by CARA, to ensure right to family for O/A/S children [Section 56 (1)]

Responsibility lies with the Child Welfare Committee of a District

Procedure for Orphan/ Abandoned Child

First, CWC tries to trace the parents and guardians of the child. If the child's status is established as an orphan or abandoned, he/she is declared legally free for adoption.



Procedure for Surrendered Child

Parents or guardians are given two months time after surrendering the child to reconsider their decision. After two months period, the child is legally declared to be free for adoption.

Process for Declaring Orphan/Abandoned Children Legally Free for Adoption



Produce child before CWC within 24 hours. submit report about the circumstances in which the child found (Form 17) to the local Police station within 24 hours

(Sec 31 of JJ Act & Reg 6(2) of AR 2021)



Interim care order by CWC to a SAA or CCI to keep the child pending inquiry

(Section 36(1), 37(1) of JJ Act & Reg 6(4) of AR 2022)



Photo publication of the child by DCPU in newspaper within 3 working days to trace out the biological parents/legal claimant

(Reg 6(6) of AR 2022)



Entering of the particulars of the child in missing and found children portal by the DCPU or CCI concerned

(Sec 32(2) of JJ Act & Reg 6(6) of AR 2022)



CCI or SAA shall submit a report to the Child Welfare Committee on completion of thirty days from the date of production of the child before the CWC.

(Sec 36(1)(2), 38 of JJ Act & Reg 6(10) of AR 2022).



Process for Declaring Orphan/Abandoned Children Legally Free for Adoption (Contd...)



CWC shall declare a child legally free for adoption within a period of three days after the expiry of two or four months, from the date of production of the child before the Child Welfare Committee, in case of a child up to two or above two years of age respectively.

(Sec 38 of JJ Act & Reg 6(14) of AR 2022)



Non receipt of Police report within stipulated time frame of 2/4 months in case of a child younger/older than 2 years respectively shall be deemed to have been given

(Reg 6(11) of AR 2022)



At least 3 members of the CWC shall sign the order declaring the child legally free for adoption

(Sec 38(4) of the JJ Act & Reg 7(17) of AR 2022)



In case of siblings or twins, they shall be declared legally free in a single order by CWC

(Reg 6(19) of AR 2022)



After the certificate declaring the child legally free for adoption is uploaded by the SAA (within 48 hours from the receipt of such certificate on CARINGS), only then the child is referred to the registered and eligible PAPs

(Reg 29 (d) of AR 2022)



Process for Declaring Surrendered Children Legally Free for Adoption



Parent or guardian wanting to surrender a child shall produce the child before CWC for surrendering the child

(Sec 35(1) of JJ Act & Reg 7(1) of AR 2022)



After counselling, the child can be surrendered 'in camera' (Reg 7(22) of AR 2022) and a surrender deed (as per Schedule V of AR 2022) shall be executed by the parent or guardian before the CWC

(Sec 35(2) of JJ Act and Reg 7(2) to 7(9) of AR 2022)



60 days reconsideration period is available to the parents or guardian surrendering the child from the date of surrender

(Sec 35(3) of JJ Act, Reg 7(12) of AR 2022)



No public notice or advertisement shall be issued in case of surrendered child

(Reg 7(13) (14) (20) of AR 2022)



CWC shall issue an order declaring the child legally free for adoption after the expiry of 60 days from the date of surrender as per schedule 1 of AR 2022

(Reg 7(17) of AR 2022)



Child Eligibility for Adoption under JJ Act, 2021 and Adoption Regulations, 2022

JJ Act, 2021

Section

2 (12)

Children up to the age of 18 years can be adopted.

56 (1)

A couple or a single parent can adopt an orphan/ abandoned/ surrendered child.

38

OAS children declared legally free for adoption by CWC can be placed in In-country and Inter-Country Adoption



(Reg 4 of Adoption Regulations 2022)

Any orphan or abandoned or surrendered child, declared legally free for adoption by the Child Welfare Committee.

A child of a relative defined under sub-section (52) of section 2 of the Act;

Child or children of spouse from earlier marriage, surrendered by the biological parent(s) for adoption by the step-parent.

Any other criteria that may be specified in the adoption regulations framed by the Authority.

Punishment for Illegal Adoption is mentioned under Section 80 of Juvenile Justice (Care and Protection) Act, 2021

Eligibility of Prospective Adoptive Parents



JJ Act, 2021 Section- 57

The prospective adoptive parents shall be physically fit, financially sound, mentally alert and highly motivated to adopt a child for providing a good upbringing to him.

In case of a couple, the consent of both the spouses for the adoption shall be required

A single or divorced person can also adopt, subject to fulfilment of the criteria and in accordance with the provisions of adoption regulations framed by the Authority.

A single male is not eligible to adopt a girl child. Other criteria as may be specified in the adoption regulations.

Adoption Regulations 2022, Reg. 5

PAPs shall be physically, mentally and emotionally stable, financially capable and shall not have any life threatening medical condition and they should not have been convicted in criminal act of any nature or accused in any case of child rights violation

Reg .5(1)

The consent of both the spouses for the adoption shall be required, in case of a married couple; a single female can adopt a child of any gender; a single male shall not be eligible to adopt a girl child. 5(2) .
Reg5(2)

Other stipulations:- Bifurcating the 0-4 age group into 0-2 and 2-4 and simultaneously modifying the PAPs age group for each age bracket to ensure younger PAPs adopt younger children. **Reg 5(4)**

Two years of stable marital relationship with minimum age difference between the child and either of the PAP shall not be less than twenty five years and composite age shall be considered in case of a couple. Age criteria can be relaxed in case of relative and step-parent adoption. **Reg 5(5) & 5(6)**

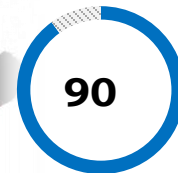
PAPs with two or more children shall only be considered for special needs and hard to place children except in the case of relative or step children adoption. 5(8) PAPs need to revalidate their HSR after the initial validity period of three years. **Reg 5(9)**

Composite age of the Prospective Adoptive Parents *Amendment in Reg. 5(4)*

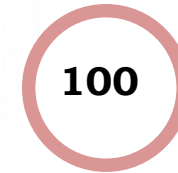
Maximum composite age of
PAPs (Couple) in Years



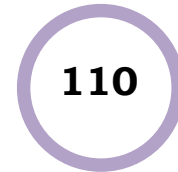
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Age of the Child

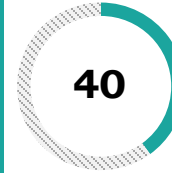
Child below 2 years of age
(Amendment in Reg. 5(4))

Above 2 years of age and
Up to 4 years

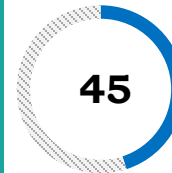
Above 4 years and below 8 years

Above 8 years up to 18 years

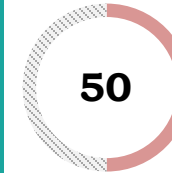
Maximum age of
single PAP in Years



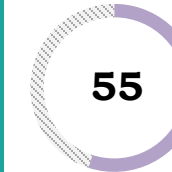
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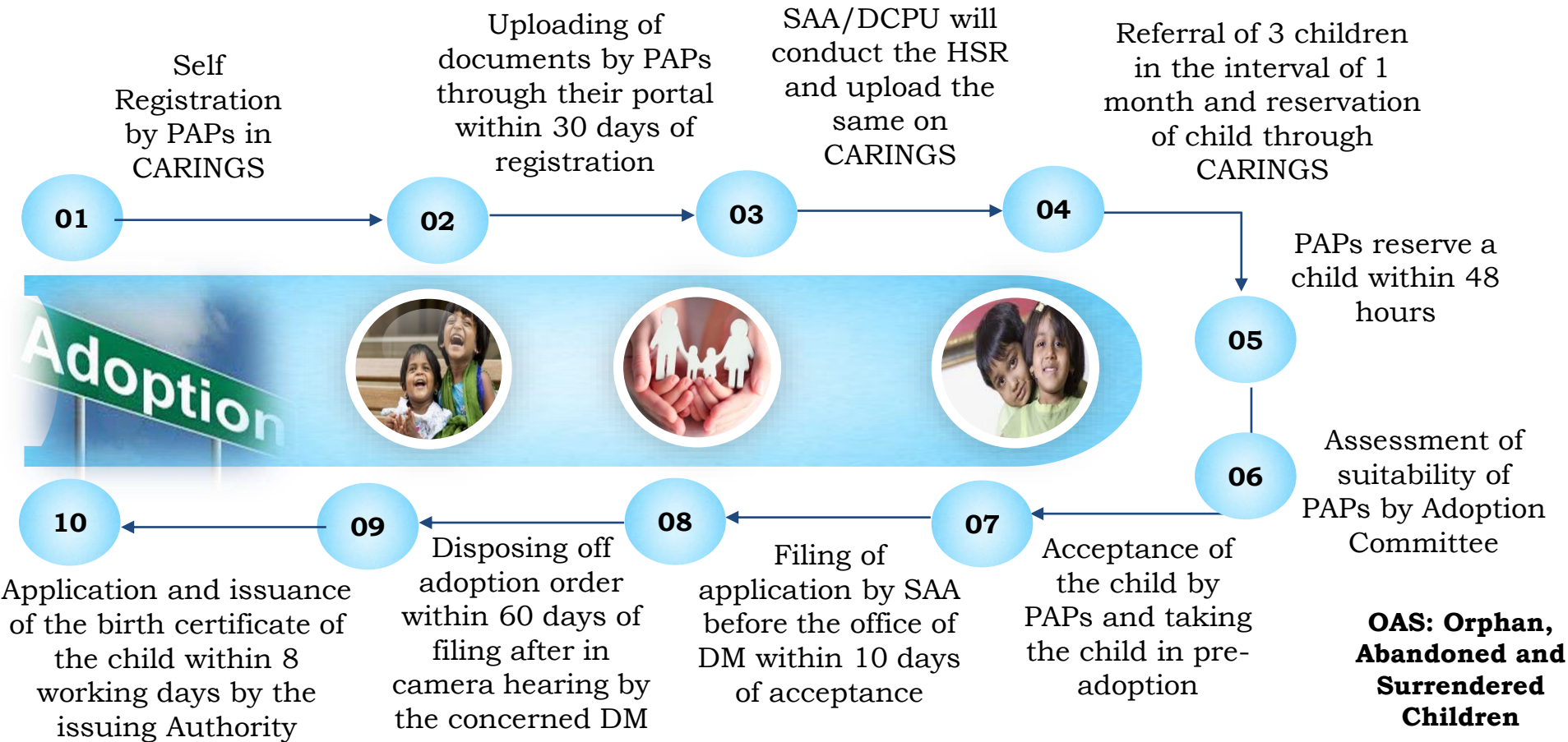
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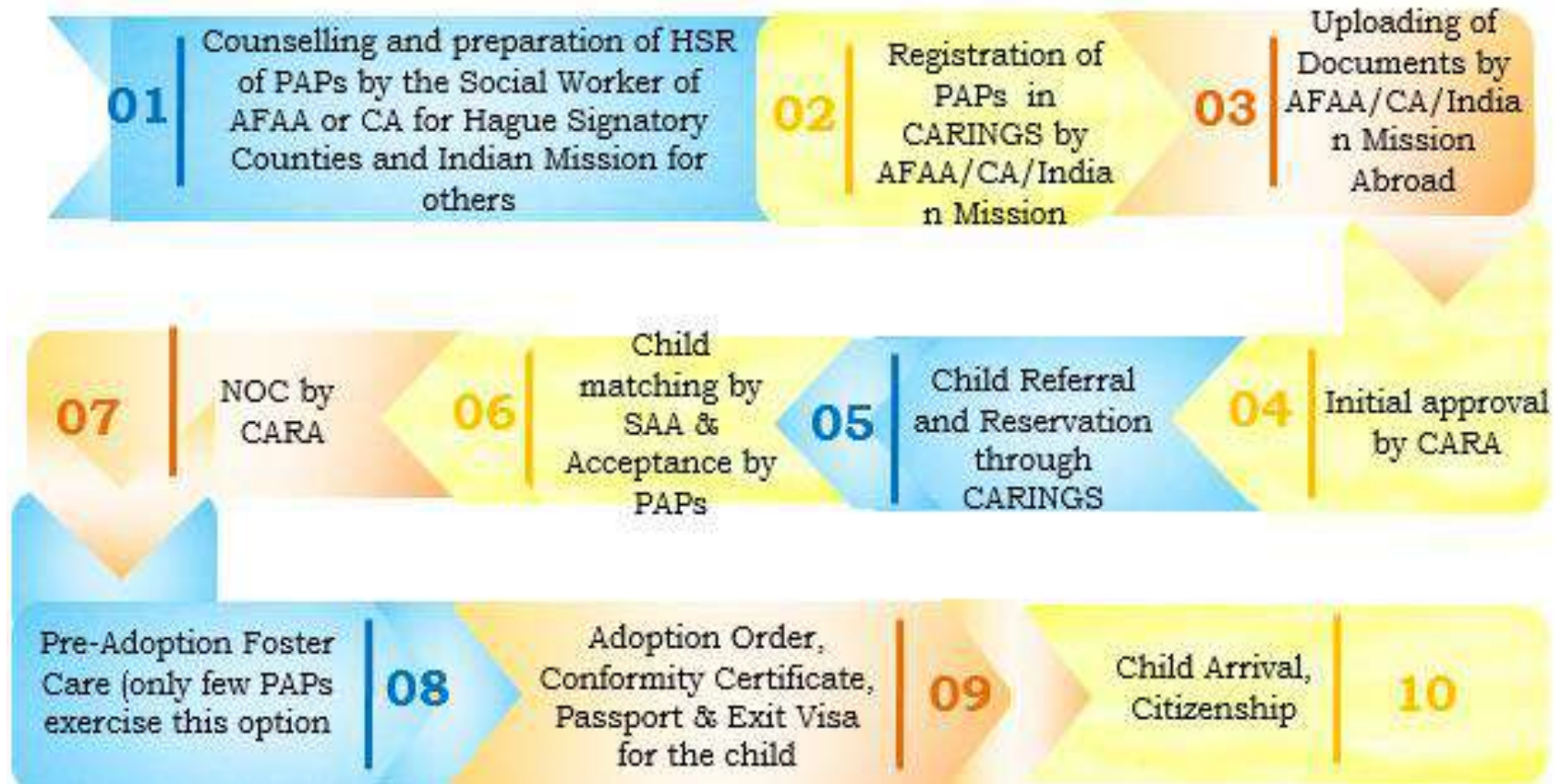


Process of In-country Adoption of OAS Children (Section 58 of JJ Act, 2015 and Adoption Regulations, 2022)



Prospective adoptive parents who do not reserve any of the referrals (3 for RI/NRI and Overseas Citizenship of India (OCI) and 2 referrals for foreign PAPs) given, shall be debarred for a period of one year, after which they can apply for fresh registration.

Inter-Country Adoption of Orphan, Abandon and Surrendered Children (Section 59 of JJ Act, 2021 and Adoption Regulation 14-22) Procedure



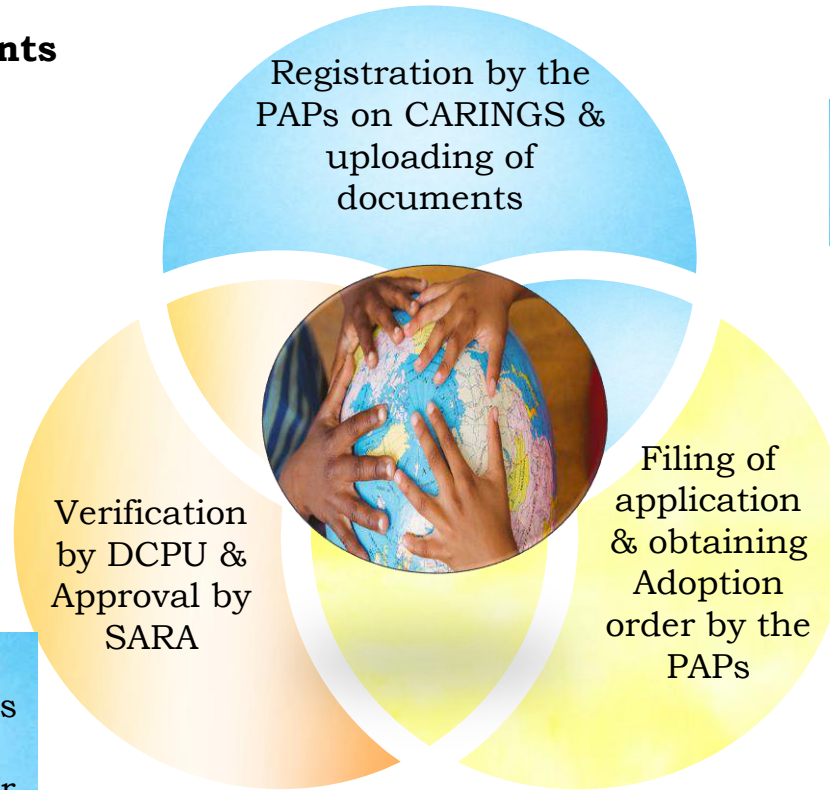
In-Country Relative Adoption (*Adoption Regulations 51*)

Consent of Biological Parents

Consent of biological parents or permission of the Child Welfare Committee, as the case may be, shall be required as provided in Schedule XIX or Schedule XXII respectively.

Adoptive Parents

(Affidavit of adoptive parent(s) is required in cases of in-country relative adoptions in support of their financial and social status as per Schedule XXIV.



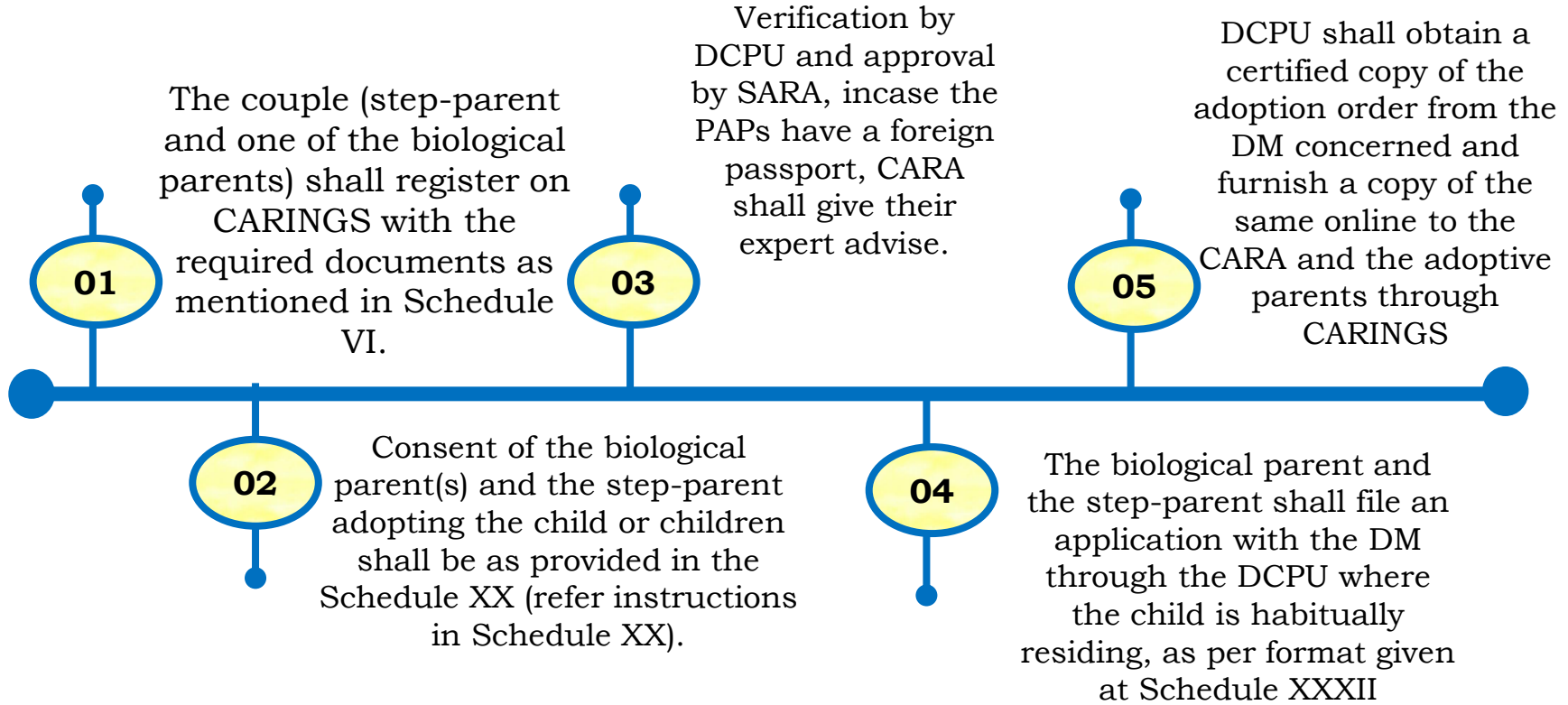
Consent of the Child

The consent of the child shall be obtained, if he/she is five years of age or above.

Prospective Adoptive Parents

The prospective adoptive parents shall file an application before the District Magistrate for adoption order as provided in Regulations, 2022

Adoption by Step-Parent (Adoption Regulations, 52)



Adoption by Step-Parent

Contd...

(Adoption Regulation, 52)

The couple (step-parent and one of the biological parents) shall register in Child Adoption Resource Information and Guidance System with the required documents as mentioned in Schedule VI.

In case the custody of the child is under litigation, the adoption process shall be initiated only after the finalisation of the case by the court concerned.



The biological parent and the step-parent shall file an application before the District Magistrate, as per format given at Schedule XXXII.

Consent of the biological parent(s) and the step-parent adopting the child or children shall be as provided in the Schedule XX (refer instructions in Schedule XX).

The applicants shall obtain a certified copy of the adoption order from the District Magistrate concerned and furnish a copy of the same online to the CARA through Child Adoption Resource

Post Adoption Follow-up

1 The SAA which has prepared the Home Study Report, shall prepare the post adoption follow-up report on six monthly basis for two years from the date of pre-adoption foster placement with the adoptive parents (as per Schedule XII) and upload the same on the Designated Portal along with photographs of the child within ten days from the conduction of such report.

2 In case the adoptive parents relocate, they shall inform the agency which has conducted their home study and the DCPU of the district where they relocate.

3 In case of non-adjustment of both the child and the adoptive family with each other, the SAA or the DCPU shall arrange the required counselling for such adoptive parents and adoptees or link them to the counselling services available within the district or state within seven days with due intimation to the SARA and the District Magistrate.

Follow Up

01

02

03

04

05

06



4 The DCPU of the district of the current residence of the prospective adoptive parent(s) shall prepare the post-adoption follow-up report and upload the same on the Designated Portal within ten days from the conduction of such report.

5 In case of follow-up of progress of adopted child by NRI, OCI Cardholder and foreign adoptive parents, the AFFA or the Central Authority or Indian diplomatic mission or Government department concerned, as the case may be, shall report the progress of the adopted child for two years from the date of arrival of the adopted child in the receiving country, on a quarterly basis during the first year and on six monthly basis in the second year.

6 In case if adoptive parents are found to be the cause of disruption or dissolution, they shall be debarred from adopting in the future, and notify the same to the State Adoption Resource Agency and the Authority, as well as take appropriate legal action for any abuse or neglect caused by the adoptive parents.

AFFA: Authorized Foreign Adoption Agency

Functions of SAA in respect to Counselling

Counselling of biological parents in case of surrender

Counselling of older children before and during adoption

Counselling of adoptive parents whenever required



Pre-adoption counselling of prospective adoptive parent(s) during preparation of Home Study Report and matching process and linking them to the counselling centre at the Authority or SARA or DCPU, wherever required.

Post-adoption counselling of the adoptees, when contacted by them in search of their roots.

During the follow-up, if the SAA finds that the adoptee is unable to adjust in the adoptive family or the continuance of the adoptee in the adoptive family is not in the best interest of the child, counselling shall be arranged for the adoptive parents and the adoptee and further, the procedure as provided in sub-regulations (4),(5) and (6)of regulation 14 shall be followed.

District Magistrate (DM)

Focal point for Implementation of JJ Amendment Act, 2021

DM & Registration of CCIs

CCIs applies for registration to State Government



State Govt sends application to DM within 15 days



DM makes recommendations as per Form 46A within 30 days



DM conduct detailed annual inspection of all CCIs



Decision on renewal of registration based on the annual inspection by the DM

- ❖ DM may designate any ADM of the District to discharge the duties under the Act.
- ❖ The DCPU shall function under the supervision of the DM



- ❖ Verification of credibility of a CCI which is being registered will be ensured.
- ❖ Ground level field verification of Institutions
- ❖ Ensure compliances at field level

Role of District Magistrate in Inspection of CCIs

1

DM shall constitute district level inspection committee. Inspection to be done as per Form 46 (form for inspection by Inspection Committee) of JJ Rules, 2022

2

Take action on the Inspection Report forwarded by the State Inspection Committee

3

Submit compliance report to the State Child Protection Society, in two months period.

4

Take necessary action on the report of the District Inspection Committee and ensure corrective measures are taken in a time bound manner.

5

Submit a report on the Child Care Institutions functioning in the District and measures taken for their improvement once every year to the State Government.



Role of District Magistrate in Monitoring of Stake holders for Improvement in quality of services in CCIs

Hold quarterly review meetings to discuss issues related to children in the district.

Review on quarterly report of JJB for examining the reasons for pendency and to make its recommendations for reduction of pendency of cases.

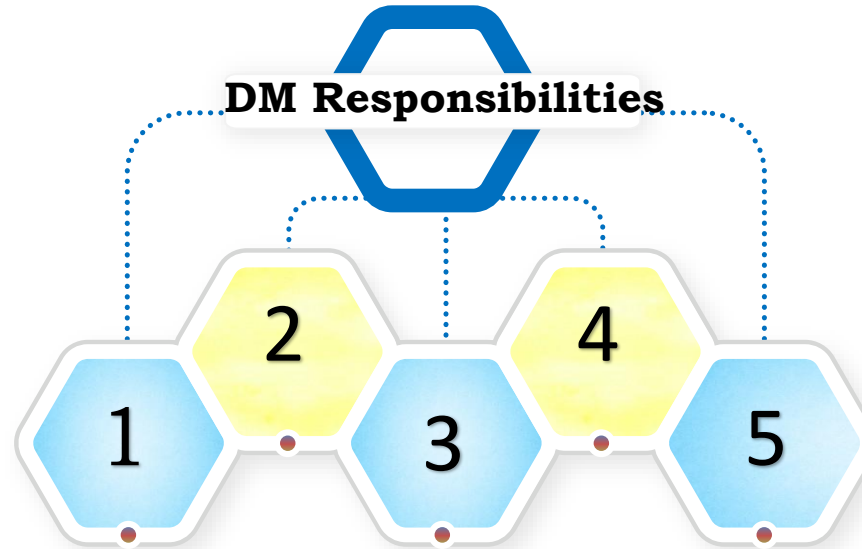


Review the monthly report of CWC on children legally free for adoption and Quarterly reports from CWC on restored, dead and runaway children

Review /Dispose grievances arising out of the functioning of CWC within 30 days period

Grievance redressal at the level of the DM will result in overall improvement of child care system.

Other Responsibilities of DM under JJ Amendment Act, 2021



1. In case of report from CWC against CCI giving a child in adoption without a valid procedure, DM to ensure shifting of children to another CCI and recommend de-recognition of the Institution to State Government

2. Proper after care plan in terms of further education/Medical support/Nutrition/Vocational training of the child is essential to help children find their feet in the world outside of CCIs

3. Repatriation of children, wherever needed will be faster

4. Involvement of DM to handle cases of defaulting CCIs will be an effective and more direct measure against such CCIs

5. Initiate the process for repatriation of the child of another country, based on orders of CWC, through the appropriate Department of the State government and in consultation with MHA and MEA Submit proposal for seeking funds from State JJ Fund

District Magistrate & Adoption Procedures under The Hindu Adoption & Maintenance Act, 1956 by parents who desire to relocate child abroad

On 17th Sept 2021, Government has notified **“Procedure for children adopted under the Hindu Adoption & Maintenance Act, 1956 by persons who desire to relocate a child abroad”** to simplify procedure related to adoption by Hindu prospective adoptive parents or adoptive parents residing outside the country.

Cases before 17 September, 2021



Verification of the Adoption Deed to be completed by the DM based on the facts and the requisite criteria of the HAMA(Reg 67(2))



Cases after 17 September 2021



DM to get Family background report prepares by the DCPO

DM shall verify the Adoption Deed after conducting enquiry and on the receipt of the necessary permission under the article 5 or 17 from the receiving country.



Adoption deed shall only be registered after the receipt of article 5/17



Pivotal Role of District Magistrates (DMs) as per the JJ Amendment Act, 2021 & Adoption Regulation, 2022

DMs/ADMs have been entrusted with the responsibility of care and protection of vulnerable children at District level.



DMs including ADMs, can now issue adoption orders under Section 61 of the JJ Act, in order to ensure speedy disposal of cases and enhance accountability.



DMs have been further empowered under the Act, to ensure effective implementation of the Act



DMs and ADMs will monitor the functioning of various agencies under the JJ Act in every District. This includes the CWCs, JJBs, DCPUs and the SJPU



DM as grievance redressal authority: Handle grievances related to child and the CWC

Rules Finalisation of Adoption

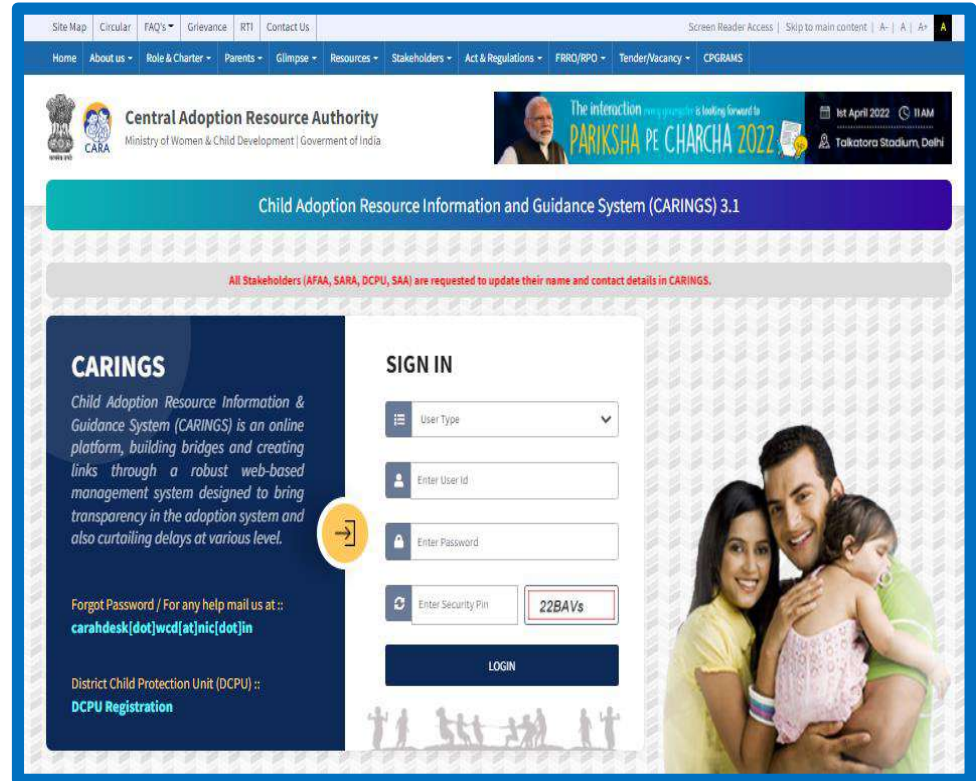
- DM/ADM to decide cases and issue final order of adoption within 60 days of application

- All the cases pertaining to adoption matters pending before the Court shall stand transferred to the DM from the notification of Rules

CARINGS, the Online System is being revamped

- Online system (CARINGS) is being revamped to enable DMs/ADMs to issue adoption order based on scrutiny by the DCPU concerned and also issue dissolution order.

- Similarly, the Chief Medical Officer of the district has been facilitated to ascertain health status of the child incase the child has probability of having special needs.



CARINGS : Toll Free Help Line No. 1800-11-1311 | Email : carahdesk[dot]wcd[at]nic[dot]in



Children are the supreme assets for nation building. Their upbringing is the responsibility of nation, whether the child is abandoned, neglected, or surrendered, and every single child should get proper facility of living.



“Every child has a right to have a family”

This e-Book is a step in our endeavour towards empowering DMs so that commitment towards prioritizing India’s children with special emphasis towards the vulnerable and marginalized ones is fulfilled.