



ÚDARÁS UCHTÁLA na hÉIREANN
THE ADOPTION AUTHORITY of IRELAND



An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Óige
Department of Children, Equality,
Disability, Integration and Youth

DATA SHARING AGREEMENT

Between

The Adoption Authority of Ireland (the Authority)

and

Department of Children, Equality, Disability, Integration and Youth
(DCEDIY)

Pursuant to

Mother and Baby Institutions Payment Scheme Act 2023
(Act No. 20/2023)

For the purpose of

Obtaining access to data and records for the administration of the
Mother and Baby Institutions Payment Scheme.

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Interpretation Table

DEFINITION	MEANING
Archive (DCEDIY)	Means a collection or records, in the possession of, compiled by or maintained by the information sources , relating to either or both of the following: (a) A relevant institution; (b) The admission to, residence in or discharge from a relevant institution of a person;
Archive (the Authority)	Has the meaning given to it by Section 2 of the National Archives Act 1986
Authority	The Adoption Authority of Ireland
EEA	The European Economic Area
Data Controller	Has the meaning given to it by the General Data Protection Regulation (2016/679).
Data Protection Impact Assessment (DPIA)	Means an assessment carried out for the purposes of Article 35 of the General Data Protection Regulation.
Data Protection Legislation	Shall be taken as a reference to the General Data Protection Regulation (2016/679) including such related legislation in respect of the processing of personal data as may be enacted by the Houses of the Oireachtas.
Data Subject	Has the meaning given to it by the General Data Protection Regulation (2016/679).
DCEDIY or the Department	Department of Children, Equality, Disability, Integration and Youth
GDPR	The General Data Protection Regulation (EU) 2016/679 of the European Parliament and the Council.
Personal Data	Has the meaning given to it by the General Data Protection Regulation (2016/679).
Personal data breach	Has the meaning given to it by the General Data Protection Regulation (2016/679).
Processing	Has the meaning given to it by the General Data Protection Regulation (2016/679).
Relevant Institution	Means an institution specified in Schedule 1 of the Mother and Baby Institutions Payment Scheme Act 2023 , as amended by S.I. 467 of 2024
Relevant Records	Has the meaning given to it by Section 2 of the Birth Information and Tracing Act 2022
Shared Personal Data	Means data shared pursuant to this agreement.
Special Categories of Personal Data	Has the meaning given to it by the General Data Protection Regulation (2016/679).

Data Sharing Agreement

BETWEEN

1. The Parties

The Adoption Authority of Ireland, Shelbourne House, Shelbourne Road, Ballsbridge, Dublin D04H6F6.

and

Department of Children, Equality, Disability, Integration and Youth (DCEDIY) is a department of the Government of Ireland, having its registered address at: Block 1, Miesian Plaza, 50 – 58 Lower Baggot Street, D02 XW14

(each a “Party” and together the “Parties”).

2. Purpose and Duration

- 2.1. This Data Sharing Agreement sets out the framework for the sharing of Personal Data between the Parties and defines the respective responsibilities and obligations that the Parties shall adhere to and the responsibilities the parties owe to one another.
- 2.2. The purpose of the Data Sharing Agreement is to ensure that any sharing of Personal Data by the Parties is carried out in accordance with data protection law.
- 2.3. This Agreement concerns the management of the data sharing process between the Authority and the Department for the purposes of complying with their respective statutory obligations under the Mother and Baby Institutions Payment Scheme Act 2023.
- 2.4. The overall objective of the Mother and Baby Institutions Payment Scheme is to provide financial payments and a form of Enhanced Medical Card to defined groups in acknowledgement of suffering experienced while resident in Mother and Baby and County Home Institutions.
- 2.5. This Agreement covers the access and sharing of hard-copy records and digitised records which contain Personal Data and special categories of personal data of residents of the Relevant Institutions. The individuals whose data will be processed are persons who are potentially eligible for the Scheme.
- 2.6. The overall determination of an applicant’s eligibility for benefits under the Scheme hinges on their period of residence in one of the Relevant Institutions. The legislation (Schedule 1, Part 1 and Part 2 of the Mother and Baby Institutions Payment Scheme Act 2023, as amended by S.I. 467 of 2024) permits institutional record searches to access personal information contained within the institutional records for the purposes of administering the Scheme. Access to this information will assist the Department in determining eligibility for the Scheme.

- 2.7. This Agreement (or an agreed amended version of it) shall continue in effect for 5 years from the establishment date of the Scheme.
- 2.8. This Agreement will be subject to periodic review and, where necessary, updated.

3. Position of Controllers

- 3.1. The Parties recognise that for the purposes of the GDPR and the Data Protection Act 2018 they are Independent Controller to Independent Controller in respect of processing of the following:
- 3.1.1. Personal Data contained within the relevant records, and archives of the Adoption Authority of Ireland and
- 3.1.2. Any Personal Data in communications between the parties where the purpose of that communication is, *inter alia*, to rely on and/or invoke the provisions of the GDPR on matters pertaining to data subject rights.

4. Lawful Basis

- 4.1. The disclosure of the Personal Data is, accordingly, necessary for compliance with legal obligations to which the Controllers are subject and in the exercise of official authority vested in them.
- 4.2. The lawful basis for processing of Personal Data by the Parties is as follows:

Party Disclosing the Data	
LAWFUL BASIS – The Authority	TASK
Processing is necessary for compliance with a legal obligation to which the controller is subject in line with Article 6.1 (c) of the GDPR.	To comply with a legal obligation to which the controller is subject.
Section 22 of the Mother and Baby Institutions Payment Scheme Act 2023 provides the lawful basis to request information from an Information Source. An “Information Source” is defined in Section Act. and	To facilitate the sharing of digital surrogates of documents, which are relevant records for the purposes of Section 2 of the Birth Information and Tracing Act 2022, required for the administration/implementation of the scheme.
Part 4, Section 54 of the Mother and Baby Institutions Payment Scheme Act 2023 which permits the sharing of personal data for the purpose of administering the Scheme.	To facilitate access to documents, which are relevant records for the purposes of Section 2 of the Birth Information and Tracing Act 2022, required for the administration/implementation of the scheme.
Party Receiving the Data	
LAWFUL BASIS - DCEDIY	TASK
Processing is necessary for compliance with a legal obligation to which the controller is subject in line with Article 6.1 (c) of the GDPR.	To comply with a legal obligation to which the controller is subject.
	To verify the identity of a person and the associated information held by a public body to provide a service to that person.

DCEDIY are authorised to access and process the personal data and do so in performance of a statutory function or in performance of a function of the Minister pursuant to Part 3, Section 22 and Part 4. Section 54 of the Mother and Baby Institutions Payment Scheme Act 2023.	<p>To avoid the financial or administrative burden that would otherwise be imposed on a person to whom a service is being or is to be delivered.</p> <p>To establish the entitlement of a person to the provision of a service/scheme on the basis of information available within a public body.</p> <p>To facilitate the administration and targeting of a service/payments scheme, to be delivered or implemented by a public body.</p>
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5. Responsibilities of the Controllers

- 5.1. The Parties agree that they are and remain separate independent Data Controllers for the purposes of the Shared Personal Data and each of the Parties is fully and solely responsible for its own compliance with Data Protection Laws.
- 5.2. Each Party shall ensure that it processes the Shared Personal Data fairly and lawfully, and each Party shall ensure it has a legal basis for processing the Personal Data for the purposes identified within this Agreement.
- 5.3. The Parties agree to use the Shared Personal Data within the European Economic Area (EEA) or a Third Country in respect of which the European Commission has issued a finding of adequacy with regard to data protection in line with Chapter V of the GDPR; and shall not process the Shared Personal Data in a way that is incompatible with the relevant purposes and the terms set out in this Agreement.
- 5.3. Each Party will comply with the requirements of the Data Protection Law and any legislation amending or extending same, in relation to the Shared Personal Data, ensuring this Agreement remains fit for purpose, accurate and up to date.
- 5.4. The Parties agree to cooperate and assist one another in complying with their respective obligations as separate data controllers with articles 35 and 36 of the GDPR.

6. Exercise of Data Subject Rights

- 6.1. Each Controller shall be responsible for fulfilling the obligations towards data subjects with regard to their personal data.
- 6.2. Where either Controller is in receipt of a request in relation to matters falling within the responsibility of the other, they shall ensure the request is passed to the other for action.
- 6.3. Where a request or objection is made by a data subject in relation to processing of the Shared Personal Data, each of the Controllers shall be responsible for responding to any such request or objection that relates to their function.
- 6.4. Each Controller where applicable shall be responsible for providing the data subject with the information required to be given to the data subject under Articles 13 and 14 and Section 90(2) of the Act of 2018, where applicable, and ensure that the data subjects clearly understand how their personal data will be processed by the Data Controller.

7. Data to be Shared

- 7.1. The Shared Personal Data will be limited to the data that is relevant, proportionate and necessary, for the performance of the functions of the Chief Deciding Officer under the Act and necessary for the performance of this Agreement and not processed in a manner that is incompatible with those purposes. A summary of the Personal Data to be shared is set out in Schedule 1 of this Agreement.
- 7.2. Data to be shared may include information from both digitised and hard copy records.
- 7.3. Both parties shall keep the data secure and adhere to the procedures set out at Schedule 2 of this Agreement regarding the access and sharing of the Shared Personal Data.
- 7.4. Any email communications, by either Parties, involving the Shared Personal Data shall be encrypted by a sufficiently secure password.
- 7.5. The Department shall not share the Shared Personal Data with any person who has not been authorised to process such data, unless required by law.
- 7.6. User access to the Shared Personal Data shall be limited and authorised in advance by the Department.
- 7.7. The Department may perform data searches on the information sources and related records to access information relating to an applicant's period of residence in one of the relevant Mother and Baby Home Institutions.

8. Security Measures

- 8.1. In accordance with Article 32 of the GDPR, both parties agree to implement appropriate technical and organisational measures to protect the Shared Personal Data in their possession against unauthorised or unlawful processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the shared personal data transmitted, stored or otherwise processed.
- 8.2. These Technical and Organisational measures can include, but is not limited to:
 - Policies, guidelines and procedures governing information security.
 - Password protection for computer access.
 - Automatic locking of idle PCs.
 - Appropriate virus-checking software and firewalls used to protect integrity and security of electronically processed data.
 - Unique identifiers for every user with access to data.
 - Employees have access only to personal data required for them to do their jobs.
 - Adequate security where remote access is allowed.
 - Encryption of data held on portable devices.
 - Logs of data accesses.
 - Data breach procedures.
 - Adequate physical security.
 - Staff training and awareness.
 - Monitoring of staff accessing data.
 - Controlling physical access to IT systems and areas where paper-based data are stored.
 - Adopting a clear desk policy.

- Appropriate techniques for destruction of data.
 - Having back-ups of data held off-site.
- 8.3. Transmission of data from the disclosing party to the receiving party shall be undertaken in accordance with 'Schedule 2'.
- 8.4. Each Party will keep the data secure and ensure that it is accessed securely in accordance with the procedures of this agreement.
- 8.5. The Parties agree to ensure that their staff who process the Shared Personal Data are aware of the requirements of this agreement and the necessity to act in full compliance.
- 8.6. The Department shall ensure that access to the data will be restricted on the basis of least privilege, sufficient to allow such person's carry out their role, that such persons are properly trained, aware of their data protection responsibilities and are obliged to keep the Shared Personal Data confidential.
- 8.7. The Department shall ensure that access to any Personal Data and/or Special Categories of Personal Data which they receive from the other Parties is limited to those of their employees and contractors who need to have access to it, and that they are informed of the confidential nature of the Personal Data and Special Categories of Personal Data, are under an obligation to keep such Personal Data and Special Categories of Personal Data confidential, and comply with the obligations set out in this Agreement;
- 8.8. The Department shall ensure their relevant employees and contractors with access to the Personal Data and/or Special Categories of Personal Data have been provided with appropriate Data Protection and IT security training.
- 8.9. The Department shall ensure that appropriate controls and policies are in place to minimise the risk of unauthorised access, removal or copying of the Shared Personal Data.
- 8.10. Upon request, and without unreasonable delay, the Party disclosing the data will provide an audit history of the personnel access to the other Party.

9. Breach Notification

- 9.1. If a Controller becomes aware of a personal data breach, involving the Shared Personal Data, they shall without undue delay notify the other Controller and carry out a risk assessment to establish the remedial and preventative action that may be required.
- 9.2. Each Controller shall inform the other of the findings of the risk assessment and the remedial and preventative actions taken.
- 9.3. The Controller responsible for the Personal Data breach shall be responsible for notifying the Data Protection Commission (where it is deemed necessary based on a risk assessment) and, where necessary, the data subject(s) in accordance with the GDPR, of any personal data breach related to the access and processing of the Shared Personal Data.

10. Retention

- 10.1. The disclosing party warrants that the records listed in 'Schedule 1' of this Agreement are relevant records for the purposes of Section 2 of Birth Information and Tracing Act 2022 and are not subject to a retention period under Section 44 (1) of the Birth Information and Tracing Act 2022.
- 10.2. The receiving Party may apply its own retention period to the Personal Data disclosed to it.
- 10.3. Following the cessation date for the Scheme all records in the possession of the Office of the Chief Deciding Officer shall, under Section 17 of the Mother and Baby Home Payment Scheme Act 2023, be deposited with the Minister Children, Equality, Disability, Integration and Youth, and shall become Departmental records which may be processed for so long as is necessary and proportionate by or on behalf of the relevant Minister for the purposes outlined in Section 17.

10 Jurisdiction

- 10.2 If any provision of this agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this agreement, and the validity and enforceability of the other provisions of this agreement shall not be affected.
- 10.3 This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of the Republic of Ireland.

11 Authorised Signatory

- 11.2 An authorised signatory is required to sign this Agreement before the Data Sharing can be executed.
- 11.3 This signatory has the role of accountability for the data sharing defined in this Data Sharing Agreement.
- 11.4 The Parties hereby agree to their obligations pursuant to this Data Sharing Agreement for the transfer of Personal Data as described.

Data Discloser

Adoption Authority of Ireland	
Signature:	<i>Lorraine Horgan</i>
Print Name:	Dr. Lorraine Horgan
Position held:	Chief Executive Officer
Email:	lorraine.horgan@aai.gov.ie
For and on behalf of:	The Adoption Authority of Ireland

Data Receiver

Department of Children, Equality, Disability, Integration and Youth (DCEDIY)	
Signature:	<i>Laura McGarrigle</i>
Print Name:	Ms. Laura McGarrigle
Position held;	Assistant Secretary, Mother and Baby Homes, Finance and Research Division
Email:	Laura.McGarrigle@equality.gov.ie
For and on behalf of:	DCEDIY

Version	Reviewed By	Approved By	Comments
1.0	DCEDIY DPO; AAI DPO; AAI DISR; DCEDIY CDO	DCEDIY Ass. Sec. ; AAI CEO	Initial Approved Version, dated 15/03/2024
1.1	DCEDIY DPO; AAI DPO; AAI DISR; DCEDIY CDO	DCEDIY Ass. Sec. ; AAI CEO	Revised Version; modifications to Interpretation Table, Clauses 2.6; 4.2; 7.1, 12.3, Schedule 1; Schedule 2; and Schedule 3.

13. Schedule 1

Types of Personal Data

1. Identity and contact information
2. Entries recorded in the Register of Births
3. Entries recorded in the Adopted Children Register
4. Connection data between points two and three of Schedule 1, where not prohibited by other enactments (See Schedule 3),
5. Data relating to Relevant Institution admissions, discharges and attendance.
6. Maternity records and family data
7. Special Category of Personal Data, which may reveal or concern:
 - a. Health or medical data
 - b. Racial or ethnic origin
 - c. Sex life or sexual orientation
 - d. Genetic data
 - e. Religious or philosophical beliefs
 - f. Data relating to perpetrated criminal acts

While health or medical data may contain information that is required for the Chief Deciding Officer to make a determination as per the Act, other categories of special category data may be received and processed.

This data, if received, is processed incidentally to the relevant data processed, and is not considered by the Chief Deciding Officer in making their determination.

Categories of Data Subjects

- Residents of relevant Mother and Baby Institutions
- Relatives of the Institution residents
- Guardian, non-guardian, foster parents, and adoptive parents
- Individuals associated with the Relevant Institutions such as employees, health and social care professionals, contractors, members of religious orders/congregations, government officials.

14. Schedule 2

Archives held by the Authority will form the basis of the Shared Personal Data. OCDO access will be applied solely to records held that are relevant, proportionate and necessary for the performance of the Chief Deciding Officer's functions under the Act.

Access to hardcopy records will be permitted according to "Access" paragraph A "Physical Access" below. Access to digitised records will be permitted according to paragraph B "Digital Archive Access"

Access

A. Physical Access

1. Physical access to records will be provided on-site in the Authority premises for Executive Office searchers to attend.
2. The use of Authority Premises for search staff of the Executive Office to inspect original records on a recurring weekly basis as mutually agreed by the Authority and the Executive Office for the validation of eligibility by applicants to the scheme.
3. Access by search staff of Executive Office will be:
 - a) in conformity with Section 22 & 54 of the Mother and Baby Institutions Payment Scheme Act 2023,
 - b) the names of the authorised Executive Office personnel will be confirmed in writing in advance by the Chief Deciding Officer or their nominee; and
 - c) Executive Office search staffs' adherence to the physical handling/preservation instructions of members of the Authority staff while in Authority premises.

B. Digital Archive Access

In line with the Section 21 (2) (4) of the Mother and Baby Institutions Payment Scheme Act 2023 digital copies of information will be provided by the Authority to the Office Chief Deciding Officer by means of an Office of the Chief Government Information Officer (OGCIO) approved SSH File Transfer Protocol (FTP) tool.

15. Schedule 3

Regulation (EU) 2016/679, Article 6.1 - Lawfulness of processing

"Processing shall be lawful only if and to the extent that at least one of the following applies..."

(c) processing is necessary for compliance with a legal obligation to which the controller is subject..."

Regulation (EU) 2016/679, Article 89.3 – Safeguards and derogations relating to processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes

Where personal data are processed for archiving purposes in the public interest, Union or Member State law may provide for derogations from the rights referred to in Articles 15, 16, 18, 19, 20 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights

are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

Mother and Baby Institutions Payment Scheme Act 2023

Section 22 - Chief Deciding Officer may request information from information source

22. (1) The Chief Deciding Officer may, to the extent necessary and proportionate for the performance of his or her functions under this Act, in particular for the purpose of establishing or verifying an applicant's residence in a relevant institution and the length of the period of such residence, or verifying information provided in the application, request an information source that holds information (including personal data and special categories of personal data) relating to the applicant to disclose such information to him or her.

(2) A request under subsection (1) shall—

- (a) confirm the purpose for which the information is required,
- (b) where the request relates to a document, specify that a copy of a document, and not the original, be provided,
- (c) confirm the safeguards in place in relation to the storage of the information and documents and the processing of personal data and special categories of personal data provided, and
- (d) specify the period within which the information requested is to be provided to the Chief Deciding Officer.

(3) An information source that receives a request made in accordance with subsection (1) shall comply with the request within the period specified in the request or within such further time period as may be agreed in writing between the Chief Deciding Officer and the information source.

(4) The Chief Deciding Officer may share with the applicant a copy of information accessed which is relevant to determinations made in relation to his or her application.

Section 54 – Use of Certain Archives

54. (1) The Chief Deciding Officer may, to the extent necessary and proportionate for the performance by him or her of his or her functions under this Act, access and process personal data and special categories of personal data contained in an archive to which this section applies, for the purpose of the performance of his or her functions under this Act.

(2) The Chief Deciding Officer may share with an appeals officer personal data and special categories of personal data accessed from an archive to which this section applies, to the extent necessary and proportionate for the performance by the appeals officer of his or her functions under this Act.

(3) The Minister may, where he or she considers the archive may contain records relevant to the performance by the Chief Deciding Officer of his or her functions under this Act, in particular that of establishing or verifying an applicant's residence in a relevant institution and the length of the period of such residence, or verifying information provided in an application, prescribe an archive to be an archive to which this section applies.

(4) In this section—

“archive” means a collection of records, in the possession of, compiled by or maintained by an information source, relating to either or both of the following:

(a) a relevant institution;

(b) the admission to, residence in or discharge from a relevant institution of a person;

“record” includes—

(a) a book or other written or printed material in any form (including in any electronic device or in machine readable form),

(b) a map, plan or drawing,

(c) a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,

(d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and

(e) a copy or part of any thing which falls within paragraph (a), (b), (c) or (d)

Birth Information and Tracing Act 2022 (as amended)

Section 17 – Information Session

17. (1) The Authority, where section 8 (4) or 10 (6) applies, or on receipt by it of the contact details of a relevant person under section 7 (4)(a) or 9 (7)(a), shall arrange for—

(a) the making of contact with the relevant person concerned, and

(b) the holding with him or her of a session in accordance with subsection (2) (in this Act referred to as an “information session”).

(2) For the purposes of this Act, an information session is a session held between the relevant person and a designated person, at which the designated person informs the relevant person of—

(a) the entitlement of the relevant person to obtain, in accordance with this Act, his or her birth certificate, or birth information relating to him or her, as the case may be, and

(b) the fact that—

- (i) the parent concerned has exercised his or her entitlement under section 38 (11) to state that he or she is not willing to be contacted by the relevant person, and
- (ii) the making of that statement by the parent constitutes an exercise by him or her of his or her right to privacy.

(3) For the purposes of subsection (2), the participants in an information session need not be in the one place, provided that each participant is able, directly or by means of electronic communications technology, to speak to, and to be heard by, the other participants.

(4) On completion of an information session, the designated person concerned shall confirm this fact in writing and provide a notification of the fact to—

- (a) where applicable, the recipient body or relevant body concerned, for the purposes of section 7 (4)(b) or 9 (7)(b), as the case may be, and

- (b) the Authority, for the purposes of—

- (i) where applicable, section 8 (4) or 10 (6), as the case may be, and

- (ii) compliance by the Authority with subsection (5).

(5) The Authority, on receipt of a notification under subsection (4)(b), shall, for the purposes of section 38 (7)(i), record in the entry in the register in respect of the parent and relevant person concerned, the fact that the information session has taken place.

Adoption Act 2010 (as amended)

Section 86 – Privacy of Adoption Records

86. (1) An tArd-Chláraitheoir shall keep an index to make traceable the connection between each entry in the Adopted Children Register and the corresponding entry in the register of births.

(2) Notwithstanding section 85, the index kept under subsection (1) shall not be open to public inspection, and no information from that index shall be given to any person except by order of a court or of the Authority, or in accordance with Section 6 of the Birth Information and Tracing Act 2022.

Section 91A – Register of gender recognition of intercountry adoptions

91 A. (1) The Authority shall establish and maintain, in the Authority, a register to be called the register of gender recognition of intercountry adoptions, for the purpose of the registration of gender recognition of intercountry adoptions.

(2) An entry in the register of gender recognition of intercountry adoptions shall be in such form and contain such particulars as may be prescribed by regulations made under section 152A.

(3) The Authority shall keep an index to make traceable the connection between each entry in the intercountry adoptions register and the corresponding entry in the register of gender recognition of intercountry adoptions.

(4) The index kept under subsection (3) shall not be open to public inspection, and no information from that index shall be given to any person except by order of a court.

(5) A court shall not make an order referred to in subsection (4), where the person to whom the information relates is a child of less than 18 years of age, unless satisfied that it is in the best interest of the child.

Civil Registration Act 2004 (as amended)

Section 30K – Separate index of connections between register and register of births

30K. (1) An tArd-Chláraitheoir shall maintain an index to make traceable the connection between each entry in the register and the corresponding entry in the register of births.

(2) The index maintained under subsection (1) shall not be open to public inspection, and no information from that index shall be given to any person except by order of a court.