

*Draft Regulations laid before Parliament under section 140(3)(b) of the Adoption and Children Act 2002, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

**CHILDREN AND YOUNG  
PERSONS, ENGLAND AND WALES**

**The Restriction on the Preparation of  
Adoption Reports Regulations 2005**

*Made* - - - -

*Coming into force* - - 30th December 2005

Whereas a draft of these Regulations was laid before Parliament in accordance with section 140(3)(b) of the Adoption and Children Act 2002<sup>(1)</sup> and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Education and Skills, in exercise of the powers conferred upon her by section 94(1) of the Adoption and Children Act 2002 and of all other powers enabling her in that behalf, and after consultation with the National Assembly for Wales<sup>(2)</sup>, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Restriction on the Preparation of Adoption Reports Regulations 2005 and shall come into force on 30th December 2005.

**Interpretation**

2. In these Regulations—

“the Act” means the Adoption and Children Act 2002;

“the 2000 Act” means the Care Standards Act 2000<sup>(3)</sup>;

“the Adoption Agencies Regulations” means the Adoption Agencies Regulations 2005<sup>(4)</sup>;

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(1) 2002 c. 38.

(2) Section 94(1) provides that the regulations are to be made by the Secretary of State after consultation with the National Assembly for Wales.

(3) 2000 c. 14.

(4) S.I.2005/389.

“the Adoptions with a Foreign Element Regulations” means the Adoptions with a Foreign Element Regulations 2005<sup>(5)</sup>;

“corresponding Welsh provision”, in relation to the Adoption Agencies Regulations or to a regulation of the Adoption Agencies Regulations, means the provision of regulations made by the Assembly under section 9 of the Act which corresponds to, as the case may be, the Adoption Agencies Regulations or to that regulation of the Adoption Agencies Regulations;

“Council” means either the English Council or the Welsh Council and “the English Council” and “the Welsh Council” have the same meaning as in section 54 of the 2000 Act;

“pre-adoption report” means a report prepared otherwise than in accordance with the Adoption Agencies Regulations or corresponding Welsh provision at the request of a relevant foreign authority following the placement for adoption of a child from the country in which that authority performs its functions and prior to that child’s adoption and includes a report prepared in accordance with regulation 29(2) of the Adoptions with a Foreign Element Regulations;

“post-adoption report” means a report prepared otherwise than in accordance with the Adoption Agencies Regulations or corresponding Welsh provision at the request of a relevant foreign authority following the adoption of a child from the country in which that authority performs its functions;

“relevant foreign authority” has the meaning given in regulation 2 of the Adoptions with a Foreign Element Regulations; and

“social worker” means a person who is registered in—

- (a) the register for social workers maintained in accordance with section 56 of the 2000 Act;
- (b) the register maintained by the Scottish Social Services Council under section 44 of the Regulation of Care (Scotland) Act 2001<sup>(6)</sup>; or
- (c) the register maintained by the Northern Ireland Social Care Council under section 3 of the Health and Personal Social Services Act (Northern Ireland) 2001<sup>(7)</sup>.

### **A person within a prescribed description**

**3.—(1)** A person is within a prescribed description for the purposes of section 94(1) of the Act if—

- (a) he is a social worker who is employed by a local authority or registered adoption society and who satisfies at least one of the conditions set out in paragraph (2)(a) or (b);
  - (b) he is a person who—
    - (i) is participating in a course approved by a Council under section 63 of the 2000 Act for persons wishing to become social workers;
    - (ii) is employed by, or placed with, a local authority or registered adoption society as part of that course; and
    - (iii) satisfies the condition set out in paragraph (2)(b); or
  - (c) he is acting on behalf of a local authority or a registered adoption society and is a social worker who satisfies the conditions in paragraph (2)(a) and (b).
- (2) The conditions referred to in paragraph (1) are that the person—
- (a) has at least three years' post-qualifying experience in child care social work, including direct experience of adoption work;
  - (b) is supervised by a social worker who—

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<sup>(5)</sup> S.I. 2005/392.

<sup>(6)</sup> 2001 asp8.

<sup>(7)</sup> 2001 c. 3.

- (i) is employed by the local authority or registered adoption society in question; and
- (ii) has at least three years' post-qualifying experience in child care social work, including direct experience of adoption work.

#### **The prescribed circumstances**

4. The circumstances prescribed for the purposes of section 94(1) of the Act are—
- (a) preparing a report about whether a child should be placed for adoption, in accordance with regulation 17(1) of the Adoption Agencies Regulations or corresponding Welsh provision;
  - (b) preparing a report about the suitability of a prospective adopter to adopt a child, in accordance with regulation 25(5) of the Adoption Agencies Regulations or corresponding Welsh provision;
  - (c) preparing a report about whether a child should be placed for adoption with a particular prospective adopter, in accordance with regulation 31(2)(d) of the Adoption Agencies Regulations or corresponding Welsh provision;
  - (d) preparing a report of a visit in accordance with regulation 36(4)(b) of the Adoption Agencies Regulations or corresponding Welsh provision;
  - (e) preparing a report of a visit or review in accordance with regulation 5(1)(h)(ii) of the Adoptions with a Foreign Element Regulations;
  - (f) preparing a report of a review of a child's case in accordance with regulation 5(3) of the Adoptions with a Foreign Element Regulations;
  - (g) preparing a pre-adoption report;
  - (h) preparing a post-adoption report;
  - (i) preparing a report in accordance with section 43 (reports in agency cases) or section 44(5) (reports in non-agency cases) of the Act; and
  - (j) preparing a report in the case of an application under section 84(1) (parental responsibility prior to adoption abroad) of the Act.

Signed by authority of the Secretary of State for Education and Skills

2005

*Lord Filkin*  
Parliamentary Under-Secretary of State  
Department for Education and Skills

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for restrictions on the preparation of adoption reports for the purposes of section 94(1) of the Adoption and Children Act 2002 (“the Act”).

Regulation 3 provides that a person is within a prescribed description for the purposes of section 94(1) of the Act if he is a social worker employed by or acting on behalf of an adoption agency and satisfies the appropriate conditions in paragraph (2) or he is a person who is participating in a social work course and is employed by or placed with an adoption agency as part of that course and satisfies the condition in paragraph 2(b).

Regulation 4 provides that the prescribed circumstances for the purposes of section 94(1) of the Act are the preparation of reports for specified purposes of, as the case may be, the Adoption Agencies Regulations 2005, any corresponding provision made by the National Assembly for Wales under section 9 of the Act, or the Adoptions with a Foreign Element Regulations 2005, the preparation of pre-adoption and post-adoption reports in intercountry adoption cases and reports in accordance with section 43 or 44(5), or for the purposes of section 84(1), of the Act.

A regulatory impact assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department for Education and Skills' website <http://www.dfes.gov.uk/ria/>.