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STATUTORY INSTRUMENTS

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**2003 No. 1173**

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

**Adoption (Bringing Children into the  
United Kingdom) Regulations 2003**

<i>Made</i>	- - - -	<i>28th April 2003</i>
<i>Laid before Parliament</i>		<i>6th May 2003</i>
<i>Coming into force</i>	- -	<i>1st June 2003</i>

The Secretary of State for Health in exercise of his powers conferred by sections 9(2) and (3) and 56A(4), (5), (6), (7) and 67(5) of the Adoption Act 1976<sup>(1)</sup> and of all other powers enabling him in that behalf, after consultation with the National Assembly for Wales<sup>(2)</sup>, hereby makes the following Regulations:—

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Adoption (Bringing Children into the United Kingdom) Regulations 2003 and shall come into force on 1st June 2003.

(2) This regulation and regulations 2, 3, 5 and 6 apply to England and Wales.

(3) Regulation 4 applies to England only.

**Interpretation**

2. In these Regulations—

“the 1976 Act” means the Adoption Act 1976<sup>(3)</sup>;

“relevant foreign authority” means a person, outside the British Islands performing functions in the country in which the child is habitually resident which correspond to the functions of an

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(1) 1976 c. 36. Section 56A is substituted by paragraph 12 of Schedule 4 to the Adoption and Children Act 2002 (c. 38). Section 56A(11) is cited because of the meaning it ascribes to the word “prescribed”.

(2) By virtue of section 56A(11) of the Adoption Act (“the 1976 Act”), the Secretary of State may make regulations only after consultation with the National Assembly for Wales. Functions of the Secretary of State under section 9 of the 1976 Act have been transferred to the National Assembly for Wales under S.I.1996/672. See also section 145(1) of the Adoption and Children Act 2002.

(3) Relevant amendments are paragraphs 10, 11, 12 and 13 of Schedule 4 to the Adoption and Children Act 2002.

adoption agency<sup>(4)</sup> or to the functions of the Secretary of State in respect of adoptions with a foreign element.

### **Requirements applicable in respect of bringing or causing a child to be brought into the United Kingdom**

3. A person intending to bring, or to cause another to bring, a child into the United Kingdom in circumstances where section 56A of the 1976 Act applies must—

- (a) apply in writing to an adoption agency for an assessment of his suitability to adopt; and
- (b) give the adoption agency any information it may require for the purposes of the assessment.

### **Duties of an adoption agency**

4. In a case where the adoption agency has determined and approved a person who has applied for an assessment under regulation 3 as eligible and suitable to adopt in accordance with the Adoption Agencies Regulations 1983<sup>(5)</sup>, that agency must notify the Secretary of State in writing of that decision and provide to him—

- (a) all the information considered by the adoption panel before making a recommendation to the agency as to whether the prospective adopter is suitable to be an adoptive parent; and
- (b) such other information relating to the case as he and the relevant foreign authority may require.

### **Conditions applicable in respect of a child brought into the United Kingdom**

5. The prescribed conditions for the purposes of section 56A(5) of the 1976 Act (conditions to be met in respect of a child brought into the United Kingdom in circumstances where that section applies) are—

- (a) prior to the child's entry into the United Kingdom, a person must receive in writing, notification from the Secretary of State that he has issued a certificate confirming to the relevant foreign authority—
  - (i) that the person has been assessed and approved as eligible and suitable to be an adoptive parent; and
  - (ii) if entry clearance and leave to enter and remain, as may be necessary, is granted and not revoked or curtailed, and an adoption order is made or an overseas adoption<sup>(6)</sup> is effected, the child will be authorised to enter and reside permanently in the United Kingdom;
- (b) except where an overseas adoption is effected, within the period of 14 days beginning with the date on which the child is brought into the United Kingdom, the person must give notice to the local authority within whose area he has his home of his intention—
  - (i) to apply for an adoption order, in accordance with section 22 of the 1976 Act<sup>(7)</sup>; or
  - (ii) not to give the child a home.

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(4) By virtue of section 1(4) of the 1976 Act, a local authority or an adoption society may be referred to as an adoption agency.

(5) Relevant amending instrument are S.I. No. 1997/649, 2308, 2001/2237, 2992, 2002/ 808, 2469 and 3220 and 2003/367.

(6) The term "overseas adoption" is given a meaning by virtue of section 72(2) as amended by paragraph (8) of Schedule 2 to the Adoption (Intercountry Aspects) Act 1999 and section 87(1)(b) of the Adoption and Children Act 2002.

(7) Section 22 is amended by section 88 of, and paragraph 10 of Part 1 of Schedule 10 to, the Children Act 1989 (c. 41).

### **Application of section 13 of the 1976 Act**

6.—(1) Where a child is brought into the United Kingdom for adoption in circumstances where section 56A of the 1976 Act applies, section 13(1) of that Act shall not apply and the remaining provisions in section 13 shall apply with the modification as set out in paragraph (2).

(2) Subsection (1A)(8) (child to live with adopters before order made) shall apply as if the words from “Where” to “the order” there were substituted “Where a child is brought into the United Kingdom for adoption in circumstances where section 56A of the 1976 Act applies and in accordance with regulations made by virtue of that section, an adoption order”.

### **Revocation**

7. The Adoption of Children from Overseas Regulations 2001(9) are hereby revoked.

Signed by the authority of the Secretary of State

28th April 2003

*Jacqui Smith*  
Minister of State,  
Department of Health

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(8) Section 13 is amended by section 11 of the Adoption (Intercountry Aspects) Act 1999 and section 139(2) of, paragraph 10 of Schedule 4 to, the Adoption and Children Act 2002 (c. 38).

(9) S.I. 2001/1251.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations impose requirements and conditions in respect of a person who is habitually resident in the British Islands and who—

- (a) brings, or causes another to bring, a child who is habitually resident outside the British Islands into the United Kingdom for the purposes of adoption by the British resident;
- (b) at any time brings, or causes another to bring, into the United Kingdom a child adopted by the British resident under an external adoption effected within the period of six months.

Regulation 3 requires the person to apply to an adoption agency to be assessed as suitable to adopt and provides for the manner of application for an assessment. The regulation also provides that the person must give the adoption agency any information it may require.

Regulation 4 makes provision in respect of duties imposed on an adoption agency in respect of a foreign adoption and the procedure to be followed. These provisions apply to England only. Similar provisions have been made in relation to Wales.

Regulation 5 prescribes the conditions that have to be met in respect of a child brought into the United Kingdom.

Regulation 6 provides for the application and modification of the provisions in section 13 of the Adoption Act 1976 (requirement for child to live with adopter before an adoption order can be made).

Regulation 7 revokes the Adoption of Children from Overseas Regulations 2001.

Copies of a regulatory impact assessment in relation to these Regulations may be obtained from the Adoption and Permanence Team, Room 101 Wellington House, 133–155, Waterloo Road, London, SE1 8UG and at [www.doh.gov.uk/adoption](http://www.doh.gov.uk/adoption).