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STATUTORY INSTRUMENTS

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**2005 No. 2720**

**CHILDREN AND YOUNG PERSONS,  
ENGLAND SOCIAL CARE, ENGLAND**

**The Adoption Support Agencies (England) and Adoption  
Agencies (Miscellaneous Amendments) Regulations 2005**

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| <i>Made</i>                                  | - - - - | <i>30th September 2005</i> |
| <i>Laid before Parliament</i>                |         | <i>7th October 2005</i>    |
| <i>Coming into force</i>                     |         |                            |
| <i>For the purposes of<br/>regulation 34</i> |         | <i>28th October 2005</i>   |
| <i>For all other purposes</i>                |         | <i>30th December 2005</i>  |

The Secretary of State for Education and Skills, in exercise of the powers conferred upon her by sections 9(2) and (3) and 67(5) of the Adoption Act 1976(1), sections 11(4), 12(2), 15(3), 16(1) and (3), 31(7), 34(1), 35(1) and 118(5) to (7) of the Care Standards Act 2000(2) and sections 2(6)(b), 8(2)(f), 9(1)(b) and (3), 10(1), (3) and (4), 98, 140(7) and (8) and 142(1) of the Adoption and Children Act 2002(3), makes the following Regulations:—

**PART 1**

**GENERAL**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005 and shall come into force for the purposes of regulation 34 on 28th October 2005 and for all other purposes on 30th December 2005.

(2) These Regulations apply to England only.

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(1) 1976 c. 36. Section 9(2) and (3) is amended by paragraph 5(6) of Schedule 4 to the Care Standards Act 2000 and paragraph 4(1) of Schedule 4 to the Adoption and Children Act 2002.  
(2) 2000 c. 14. See section 121(1) for the definitions of “prescribed” and “regulations”.  
(3) 2002 c. 38.

## Interpretation

### 2.—(1) In these Regulations—

“the 2000 Act” means the Care Standards Act 2000;

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

“the 2005 Regulations” means the Adoption Support Services Regulations 2005(4);

“adoptive child” means—

- (a) a child who has been adopted or in respect of whom a person has given notice of his intention to adopt under section 44 of the 2002 Act; or
- (b) a child whom an adoption agency has matched with a prospective adopter or placed for adoption;

“adoptive parent” means—

- (a) a person who has adopted a child or has given notice under section 44 of the 2002 Act of his intention to adopt a child; or
- (b) a person with whom an adoption agency has matched a child or has placed a child for adoption;

“agency” means an adoption support agency;

“child” means a person who has not attained the age of 18 years;

“children’s guide” means the written guide produced in accordance with regulation 5(4);

“complaints procedure” means the procedure established under regulation 16(1);

“organisation” means a body corporate or any unincorporated association other than a partnership;

“registered manager” means, in relation to an agency, a person who is registered under Part 2 of the 2000 Act as the manager of the agency;

“registered person” means, in relation to an agency, any person who is the registered provider or the registered manager;

“registered provider” means, in relation to an agency, a person who is registered under Part 2 of the 2000 Act as the person carrying on the agency;

“registration authority” means the Commission for Social Care Inspection(5);

“responsible individual” shall be construed in accordance with regulation 7(2)(c);

“statement of purpose” means the written statement compiled in accordance with regulation 5(1).

(2) In these Regulations any reference to employing a person includes employing a person whether or not for payment, and whether under a contract of service or a contract for services, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

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(4) S.I.2005/691.

(5) The Commission for Social Care Inspection was established by section 42 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).

### Prescribed services

3.—(1) For the purposes of these Regulations the following services (in addition to other services prescribed for the purposes of section 2(6)(b) of the 2002 Act(6)) are prescribed as adoption support services—

- (a) any services prescribed in regulation 3(1)(b) to (f) of the 2005 Regulations that are provided in the case of an adoption of a child by his natural parent or the partner of his natural parent;
- (b) assistance to adoption agencies in preparing and training adoptive parents;
- (c) assistance to—
  - (i) adopted persons who have attained the age of 18, or
  - (ii) relatives of such persons,

to facilitate contact between such adopted persons and their relatives (and in this subparagraph “relative”, in relation to an adopted person, means any person who, but for his adoption, would be related to him by blood, including half-blood, marriage or civil partnership).

(2) In the case of an adoption of a child by his natural parent or the partner of his natural parent respite care that consists of the provision of accommodation must be accommodation provided by or on behalf of a local authority under section 23 of the Children Act 1989(7) (accommodation of looked after children) or by a voluntary organisation under section 59 of that Act.

### Exceptions

4.—(1) A barrister, or a solicitor of the Supreme Court, who is providing adoption support services in the course of his practice as such is not an adoption support agency.

(2) An undertaking is not an adoption support agency merely because it provides services to enable groups of adoptive children, adoptive parents and natural parents or former guardians of an adoptive child to discuss matters relating to adoption.

(3) An undertaking is not an adoption support agency merely because it—

- (a) provides respite care in relation to adoption and is a—
  - (i) care home,
  - (ii) children’s home, or
  - (iii) domiciliary care agency,in respect of which a person is registered under Part 2 of the 2000 Act; or
- (b) provides respite care in relation to adoption consisting of child minding within the meaning in Part 10A of the Children Act 1989(8) (“the 1989 Act”) and is registered for child minding under that Part of that Act; or
- (c) provides respite care in relation to adoption consisting of day care within the meaning in Part 10A of the 1989 Act on premises in respect of which it is registered to provide day care under that Part of that Act.

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(6) See the services prescribed in regulation 3 of the Adoption Support Services Regulations 2005, S.I. 2005/691, and regulation 3(3) of the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005, S.I. 2005/890.

(7) 1989 c. 41.

(8) Part 10A of the Children Act 1989 was inserted by the Care Standards Act 2000, section 79(1).

### **Statement of purpose and children's guide**

5.—(1) The registered person shall compile in relation to the agency a written statement which shall consist of a statement as to the matters listed in Schedule 1 (“statement of purpose”).

(2) The registered person shall provide a copy of the statement of purpose to the registration authority.

(3) The registered person shall make a copy of the statement of purpose available, upon request, for inspection by—

- (a) any person working for the purposes of the agency;
- (b) any person receiving adoption support services from the agency or acting on behalf of a child receiving such services from the agency;
- (c) any person making enquiries about receiving adoption support services from the agency on his own or a child's behalf;
- (d) any local authority.

(4) The registered person in relation to an agency which provides adoption support services to children shall produce a written guide to the agency (“children's guide”) which shall include—

- (a) a summary of the agency's statement of purpose;
- (b) a summary of the complaints procedure; and
- (c) the address and telephone number of the registration authority.

(5) The children's guide shall be produced in a form appropriate to the age, understanding and communication needs of the children to whom the agency provides adoption support services.

(6) The registered person shall provide a copy of the children's guide to the registration authority, to any adult acting on behalf of a child to whom the agency provides adoption support services and (subject to his age and understanding) to each such child.

(7) Subject to paragraph (8), the registered person shall ensure that the agency is at all times conducted in a manner that is consistent with its statement of purpose.

(8) Nothing in paragraph (7) shall require or authorise the registered person to contravene, or not comply with—

- (a) any other provision of these Regulations; or
- (b) any conditions for the time being in force in relation to the registration of the registered person under Part 2 of the 2000 Act.

### **Review of statement of purpose and children's guide**

6. The registered person shall—

- (a) keep under review and, where appropriate, revise the statement of purpose and children's guide;
- (b) notify the registration authority of any such revision within 28 days of making the revision; and
- (c) if the children's guide is revised, supply a copy to any adult acting on behalf of a child to whom the agency provides adoption support services and (subject to his age and understanding) to each such child.

## PART 2

### REGISTERED PROVIDERS, RESPONSIBLE INDIVIDUALS AND MANAGERS

#### **Fitness of registered provider**

- 7.—(1) A person shall not carry on an agency unless he is fit to do so.
- (2) A person is not fit to carry on an agency unless the person—
- (a) is an individual who carries on the agency—
    - (i) otherwise than in partnership with others and he satisfies the requirements set out in paragraph (3);
    - (ii) in partnership with others, and he and each of the partners satisfies the requirements set out in paragraph (3);
  - (b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);
  - (c) is an organisation and—
    - (i) the organisation has given notice to the registration authority of the name, address and position in the organisation of an individual (“the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the agency; and
    - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) he is of integrity and good character;
  - (b) he is physically and mentally fit to carry on the agency; and
  - (c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.
- (4) A person shall not carry on an agency if—
- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded;
  - (b) he is a person in respect of whom a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A of the Insolvency Act 1986<sup>(9)</sup> has effect; or
  - (c) he has made a composition or arrangement with his creditors and has not been discharged in respect of it.

#### **Appointment of manager**

- 8.—(1) The registered provider shall appoint an individual to manage the agency if the registered provider is—
- (a) an organisation or a partnership;
  - (b) is not a fit person to manage an agency; or
  - (c) is not, or does not intend to be, in full-time day-to-day charge of the agency.
- (2) The registered provider shall forthwith notify the registration authority of—
- (a) the name of any person appointed in accordance with this regulation; and
  - (b) the date on which the appointment is to take effect.

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(9) 1986 c. 45. Schedule 4A was inserted by section 257(2) of the Enterprise Act 2002 (c. 40).

### **Fitness of manager**

- 9.**—(1) A person shall not manage an agency unless he is fit to do so.
- (2) A person is not fit to manage an agency unless—
- (a) he is of integrity and good character;
  - (b) having regard to the size of the agency and the agency’s statement of purpose—
    - (i) he has the qualifications, skills and experience necessary for managing the agency; and
    - (ii) he is physically and mentally fit to manage the agency; and
  - (c) full and satisfactory information is available in relation to him in respect of each of the matters listed in Schedule 2.

### **Registered person – general requirements**

**10.**—(1) The registered person and the responsible individual (if any) shall, having regard to the size of the agency, the statement of purpose and the number and needs of those receiving adoption support services from the agency, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.

- (2) If the registered provider is—
- (a) an individual, he shall undertake,
  - (b) an organisation, it shall ensure that the responsible individual undertakes,
  - (c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the agency.

(3) The registered provider shall ensure that the registered manager undertakes from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the agency.

### **Notification of offences**

**11.** Where the registered person or the responsible individual is convicted of any criminal offence, whether in England and Wales or elsewhere, he shall immediately give notice in writing to the registration authority of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted;
- (c) the penalty imposed on him in respect of the offence.

## **PART 3**

### **CONDUCT OF AGENCIES**

#### **Arrangements for the protection of children**

**12.**—(1) The registered person in relation to an agency providing adoption support services to children shall prepare and implement a written policy which—

- (a) is intended to safeguard from abuse or neglect children receiving adoption support services from the agency; and

- (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.
- (2) The procedure under paragraph (1)(b) shall provide in particular for—
- (a) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in respect of the child;
  - (b) written records to be kept of any allegation of abuse or neglect and the action taken in response; and
  - (c) arrangements to be made for persons working for the purposes of the agency and adults and children to whom the agency has provided adoption support services to have access to information that would enable them to contact—
    - (i) the local authority in whose area the agency is situated and any other local authority on behalf of whom the agency is providing adoption support services to a child, and
    - (ii) the registration authority,regarding any concern about child welfare or safety.
- (3) In this regulation “child protection enquiries” means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the Children Act 1989 relating to the protection of children.

#### **Provision of services**

**13.** The registered person shall ensure that adoption support services provided to any person are appropriate having regard to the needs for such services identified by an assessment carried out by the agency or by a local authority.

#### **Records with respect to services**

- 14.—**(1) The registered person shall maintain records indicating in respect of each person to whom the agency provides adoption support services—
- (a) full name;
  - (b) date of birth;
  - (c) whether he is an adoptive child or an adopted person who has attained the age of 18 or, if not, his relationship to an adoptive child or adopted person;
  - (d) description of services requested;
  - (e) description of needs as assessed by the agency or a local authority;
  - (f) description of services provided;
  - (g) whether the services are provided on behalf of a local authority by virtue of section 3(4)(b) of the 2002 Act<sup>(10)</sup>.
- (2) The records specified in paragraph (1) shall be retained for such period as the registered provider considers appropriate.

#### **Adoption case records (adoption support agencies that were formerly adoption agencies)**

- 15.—**(1) This regulation applies where an adoption support agency holds pre-commencement case records by virtue of regulation 16(2A) of the 1983 Regulations (transfer of case records).
- (2) The provisions of the 1983 Regulations that relate to the retention, storage, transfer and disclosure of information in relation to the adoption of a person adopted before 30th December 2005

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<sup>(10)</sup> See regulation 5(1)(b) of the Adoption Support Services Regulations 2005, S.I. 2005/691.

shall apply to the pre-commencement case records held by an adoption support agency as they apply to the case records of an adoption agency.

(3) In this regulation—

“the 1983 Regulations” means the Adoption Agencies Regulations 1983<sup>(11)</sup>;

“adoption agency” has the same meaning as in section 1(4) of the Adoption Act 1976<sup>(12)</sup>; and

“pre-commencement case records” means case records for any adoption before 30th December 2005.

### Complaints

**16.**—(1) The registered person shall establish a written procedure for considering complaints made by or on behalf of any person to whom the agency has provided adoption support services or to whom the agency has refused to provide adoption support services (“complaints procedure”).

(2) The complaints procedure shall provide in particular—

(a) for an opportunity for informal resolution of a complaint at an early stage;

(b) that no person who is the subject of a complaint takes part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;

(c) for dealing with complaints about the registered person or responsible individual; and

(d) in the case of an agency providing adoption support services to children, for complaints to be made by a person acting on behalf of a child.

(3) The registered person shall provide a copy of the complaints procedure to every person working for the purposes of the agency and shall provide, upon request, a copy of the procedure to any person mentioned in paragraph (1) or any person acting on behalf of a child.

(4) The copy of the complaints procedure supplied under paragraph (3) shall include—

(a) the name, address and telephone number of the registration authority; and

(b) details of the procedure (if any) which has been notified to the registered person by the registration authority for the making of complaints to the registration authority that relate to the agency.

### Complaints – further requirements

**17.**—(1) The registered person shall ensure that any complaint made under the complaints procedure is fully investigated.

(2) The registered person shall, so far as is reasonably practicable, within a period of 28 days beginning on the date on which the complaint is received by the agency, inform the complainant of the outcome of the investigation and the action (if any) that is to be taken in consequence.

(3) The registered person shall ensure that a written record is made of any complaint, including details of the investigation made, the outcome and any action taken in consequence, and for that record to be retained for at least 3 years from the date that it is made.

(4) The registered person shall take all reasonable steps to ensure that—

(a) children are enabled to make a complaint; and

(b) no person is subject to any reprisal by the agency for making a complaint.

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<sup>(11)</sup> S.I. 1983/1964; relevant amending instruments are S.I. 1997/649, 1997/2308, 2002/3220, 2003/367 and 2005/774. Regulation 16(2A) is inserted by regulation 35 of these Regulations.

<sup>(12)</sup> 1976 c. 36. Section 1(4) was amended by paragraph 5(2) of Schedule 4 to the Care Standards Act 2000, is to be repealed by Schedule 5 to the Adoption and Children Act 2002 and will be subject to savings.

(5) The registered person shall supply to the registration authority at its request a statement containing a summary of any complaints made during the preceding 12 months and the action that was taken in consequence.

### **Staffing of agency**

**18.** The registered person shall ensure that there is, having regard to the size of the agency, the statement of purpose, and the number and needs of persons to whom the agency provides adoption support services, a sufficient number of suitably qualified, competent and experienced persons working for the purposes of the agency.

### **Fitness of workers**

- 19.**—(1) The registered person shall not—
- (a) employ a person to work for the purposes of the agency unless that person is fit to work for the purposes of the agency; or
  - (b) allow a person who is employed by a person other than the registered provider to work for the purposes of the agency unless that person is fit to work for the purposes of the agency.
- (2) For the purposes of paragraph (1), a person is not fit to work for the purposes of an agency unless—
- (a) he is of integrity and good character;
  - (b) he has the qualifications, skills and experience necessary for the work he is to perform;
  - (c) he is physically and mentally fit for the work he is to perform; and
  - (d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

### **Employment of staff**

- 20.**—(1) The registered person shall—
- (a) ensure that all permanent appointments of staff employed for the purposes of the agency are subject to the satisfactory completion of a period of probation; and
  - (b) provide all employees with a job description outlining their responsibilities.
- (2) The registered person shall ensure that all persons employed by the agency—
- (a) receive appropriate training, supervision and appraisal; and
  - (b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

### **Staff disciplinary procedure**

- 21.**—(1) The registered person shall operate a disciplinary procedure which, in particular—
- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of persons to whom the agency provides adoption support services;
  - (b) provides that the failure on the part of an employee to report, to an appropriate person, an incident of abuse, or suspected abuse, of a child to whom the agency provides adoption support services is a ground on which disciplinary proceedings may be instituted.
- (2) For the purposes of paragraph (1)(b), an appropriate person is—
- (a) the registered person;
  - (b) an officer of the registration authority;

- (c) a police officer;
- (d) an officer of the National Society for the Prevention of Cruelty to Children;
- (e) an officer of the local authority in whose area the agency is situated;
- (f) an officer of the local authority in whose area the child is living.

### **Records with respect to staff**

**22.**—(1) The registered person shall maintain and keep up to date the records specified in Schedule 3.

(2) The records referred to in paragraph (1) shall be retained for at least 15 years from the date of the last entry.

### **Fitness of premises**

**23.**—(1) The registered person shall not use premises for the purposes of the agency unless the premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person shall ensure—

- (a) that there are adequate security arrangements at the premises, in particular that there are secure facilities for the storage of records; and
- (b) that any records which are, for any reason, not on the premises are nevertheless kept in conditions of appropriate security.

## **PART 4**

### **MISCELLANEOUS**

#### **Notifiable events**

**24.**—(1) If, in relation to an agency, any of the events listed in column 1 of the table in Schedule 4 (“the table”) takes place, the registered person shall without delay notify the person indicated in respect of the event in column 2 of the table.

(2) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing by the registered person within 14 days.

(3) In the table—

“Local Health Board” means the Local Health Board(**13**) in whose area the child who has died or sustained serious injury in the course of receiving adoption support services was living at the time of the incident;

“Primary Care Trust” means the Primary Care Trust in whose area the child who has died or sustained serious injury in the course of receiving adoption support services was living at the time of the incident; and

“relevant authority” means—

- (a) the local authority in whose area the agency is situated; and

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**(13)** Local Health Boards are established under the National Health Service Act 1977, section 16B (c.49), and Primary Care Trusts are established under section 16A of that Act; those sections were inserted by the Health Act 1999, section 2 (c.8). Section 16A was amended by the National Health Service Reform and Health Care Professions Act 2002, section 2(1) to (3) (c.17); section 16B was amended by that Act, Schedule 1, paragraphs 1 and 4 and Schedule 5, paragraphs 4 and 6, and by the Health and Social Care (Community Health and Standards) Act 2003, section 182(1) (c.43).

- (b) in relation to a child who has died or sustained serious injury in the course of receiving adoption support services, any other local authority on behalf of whom the agency is providing adoption support services to that child by virtue of section 3(4)(b) of the 2002 Act.

### **Financial position**

**25.**—(1) The registered provider shall—

- (a) carry on the agency in such a manner as is likely to ensure that it will be financially viable for the purpose of achieving the aims and objectives set out in its statement of purpose; and
- (b) ensure that adequate accounts are maintained and kept up to date in respect of the agency.

(2) The registered provider shall, if the registration authority so requests, provide the authority with such information and documents as it may require for the purpose of considering the financial viability of the agency, including—

- (a) the annual accounts of the agency, certified by an accountant; and
- (b) a certificate of insurance for the registered provider in respect of liability which may be incurred by him in relation to the agency in respect of death, injury, public liability, damage or other loss.

### **Notice of absence**

**26.**—(1) Where—

- (a) the registered provider, if he is the person in day-to-day charge of the agency; or
- (b) the registered manager,

proposes to be absent from the agency for a continuous period of 28 days or more the registered person shall give notice in writing to the registration authority of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the proposed absence is to start, or within such shorter period as may be agreed with the registration authority, and the notice shall specify—

- (a) the length or expected length of the proposed absence;
- (b) the reason for the proposed absence;
- (c) the arrangements which have been made for the running of the agency during that absence;
- (d) the name, address and qualifications of the person who will be responsible for the management of the agency during the absence; and
- (e) the arrangements that have been made or are proposed to be made for appointing another person to manage the agency during the absence, including the proposed date by which the appointment is to start.

(3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within one week of its occurrence, specifying the matters mentioned in paragraph (2).

(4) Where—

- (a) the registered provider, if he is the person in day-to-day charge of the agency; or
- (b) the registered manager,

has been absent from the agency for a continuous period of 28 days or more, and the registration authority has not been given notice of the absence, the registered person shall without delay give notice in writing to the authority specifying the matters mentioned in paragraph (2).

(5) The registered person shall notify the registration authority of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of his return.

### **Notice of changes**

**27.**—(1) The registered person shall give notice in writing to the registration authority as soon as it is practicable to do so if any of the following events takes place or is proposed to take place—

- (a) a person other than the registered person carries on or manages the agency;
- (b) a person ceases to carry on or manage the agency;
- (c) where the registered provider is an individual, he changes his name;
- (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (e) where the registered provider is an organisation—
  - (i) the name or address of the organisation is changed;
  - (ii) there is any change of director, manager, secretary or similar officer of the organisation;
  - (iii) there is any change in the identity of the responsible individual;
- (f) where the registered provider is an individual, a trustee in bankruptcy is appointed or he makes any composition or arrangement with his creditors; or
- (g) where the registered provider is a company, or a partnership, a receiver, manager, liquidator or provisional liquidator is appointed in respect of the registered provider.

(2) If more than one person is registered in respect of an agency, and a registered person dies, the other registered person shall without delay notify the registration authority of the death, in writing.

(3) If only one person is registered in respect of an agency, and he dies, his personal representatives shall without delay notify the registration authority of the death, in writing.

### **Appointment of liquidators, etc.**

**28.**—(1) Any person to whom paragraph (2) applies shall—

- (a) forthwith notify the registration authority of his appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day-to-day control of the agency in any case where there is no registered manager; and
- (c) not more than 28 days after his appointment notify the registration authority of his intentions regarding the future operation of the agency.

(2) This paragraph applies to any person appointed as—

- (a) the receiver or manager of the property of a company or partnership which is a registered provider of an agency;
- (b) the liquidator or provisional liquidator of a company which is a registered provider of an agency;
- (c) the trustee in bankruptcy of an individual who is a registered provider of an agency.

### **Offences**

**29.**—(1) A person who contravenes or fails to comply with any of the provisions of regulations 5(1) to (7), 6, 7(1) and (4), 8(2), 9(1), 10, 11, 12(1) and (2), 13, 14, 16 to 18, 19(1), 20,

21(1), 22, 23, 24(1) and (2), 25, 26 and 27(1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The registration authority shall not bring proceedings against a person in respect of any contravention or failure to comply with any of the provisions of those regulations unless—

- (a) subject to paragraph (4), he is a registered person;
- (b) notice has been given to him in accordance with paragraph (3);
- (c) the period specified in the notice, within which the registered person may make representations to the registration authority, has expired;
- (d) in a case where, in accordance with paragraph (3)(b), the notice specifies any action that is to be taken within a specified period, the period has expired and the action has not been taken within that period.

(3) Where the registration authority considers that the registered person has contravened or failed to comply with any of the provisions of the regulations mentioned in paragraph (1), it may serve a notice on the registered person specifying—

- (a) in what respect in its opinion the registered person has contravened or is contravening any of the regulations, or has failed or is failing to comply with the requirements of any of the regulations;
- (b) what action, in the opinion of the registration authority, the registered person should take so as to comply with any of those regulations; and
- (c) the period, not exceeding three months, within which the registered person should take action.

(4) The registration authority may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 14 or 22, and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

### **Compliance with regulations**

**30.** Where anything is required under these Regulations to be done by more than one person, it shall, if done by one of those persons, not be required to be done by the other person or, as the case may be, persons.

## **PART 5**

### **FEES, FREQUENCY OF INSPECTIONS AND REGISTRATION**

#### **Amendment of the National Care Standards Commission (Registration) Regulations 2001**

**31.—**(1) The National Care Standards Commission (Registration) Regulations 2001(14) are amended as follows.

(2) In regulation 2 (interpretation), after sub-paragraph (cf) in the definition of “statement of purpose” in paragraph (1) insert—

- “(cg) in relation to an adoption support agency, the written statement required to be compiled in relation to the adoption support agency in accordance with regulation 5(1) of

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(14) S.I. 2001/3969; amended by S.I. 2002/865, 2002/2469, 2003/369, 2003/1845, 2003/2323, 2004/664, 2004/696, 2004/1771, 2004/2071 and 2005/2114.

the Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005(15);”.

- (3) In Schedule 7 (particulars to be recorded in the registers kept by the Commission)—
- (a) in paragraph 9—
- (i) in the heading, for the words “fostering agencies and adult placement schemes” substitute “fostering agencies, adult placement schemes and adoption support agencies”; and
- (ii) after paragraph (e) add—
- “(f) adoption support agencies, the code ASA”;
- (b) in paragraph 10—
- (i) at the end of sub-paragraph (1) add—

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“domestic adoption services and adoption support services DA&AS

intercountry adoption services and adoption support services ICA&AS

domestic and intercountry adoption services and adoption support services DICA&AS”;

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- (ii) in sub-paragraph (2), before the definition of “domestic adoption services” insert—
- ““adoption support services” has the same meaning as in section 2(6) of the Adoption and Children Act 2002(16);”.

### **Amendment of the National Care Standards Commission (Fees and Frequency of Inspections) (Adoption Agencies) Regulations 2003**

**32.**—(1) The National Care Standards Commission (Fees and Frequency of Inspections) (Adoption Agencies) Regulations 2003(17) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
- (a) for the definition of “registered provider” substitute—
- ““registered provider” means, in relation to a voluntary adoption agency or an adoption support agency, a person who is registered under Part 2 of the Act as the person carrying on the agency;”;
- (b) for the definition of “relevant number of staff” substitute—
- ““relevant number of staff” means—
- (a) in the case of a voluntary adoption agency, seven full-time staff or the equivalent, but does not include the manager or, as the case may be, branch manager, appointed in accordance with the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003(18);

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(15) S.I. 2005/ 2720.

(16) 2002 c. 38. See also the services prescribed in regulation 3 of the Adoption Support Services Regulations 2005, S.I. 2005/691, regulation 3(3) of the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005, S.I. 2005/890 and the Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005, S.I. 2005/ 2720.

(17) S.I. 2003/368, amended by S.I. 2004/664 and S.I. 2005/640.

(18) S.I. 2003/367, amended by S.I. 2004/664.

- (b) in the case of an adoption support agency, two full-time staff or the equivalent, but does not include the manager appointed in accordance with the Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005<sup>(19)</sup> or anyone employed solely as a receptionist or administrator;

“small adoption support agency” means an adoption support agency where no more than the relevant number of staff are employed at any one time;”.

- (3) After regulation 3 (registration fees) insert—

“**3A.**—(1) For the purposes of section 12(2) of the Act, the fee to accompany an application by a person seeking to be registered under Part 2 of the Act as the person who carries on an adoption support agency shall, subject to paragraph (2), be £1,320.

(2) Where the adoption support agency is a small adoption support agency the fee shall be £360.

(3) For the purposes of section 12(2) of the Act, the fee to accompany an application by a person seeking to be registered under Part 2 of the Act as the person who manages an adoption support agency other than a small adoption support agency shall be £360.”.

- (4) In regulation 4(1) (variation fees), after “registered provider” insert “in relation to a voluntary adoption agency”.

- (5) After regulation 4 insert—

“**4A.**—(1) For the purposes of section 15(3) of the Act, the fee to accompany an application by the registered provider in relation to an adoption support agency under section 15(1)(a) of the Act (“the variation fee”) shall, subject to paragraphs (2) and (3), be £660.

(2) Where the adoption support agency is a small adoption support agency the fee shall be £360.

(3) In the case of an application for the variation of a condition for the time being in force where the variation of the condition is a minor variation, the variation fee shall be £60, and “minor variation” has the same meaning as in regulation 4(4).”.

- (6) In regulation 5 (annual fees – voluntary adoption agencies), after “registered provider” insert “in relation to a voluntary adoption agency”.

- (7) After regulation 5 insert—

**“Annual fees – adoption support agencies**

**5A.**—(1) The registered provider in relation to an adoption support agency shall pay an annual fee and the amount of the annual fee shall, subject to paragraph (2), be £600.

(2) Where the adoption support agency is a small adoption support agency the amount of the annual fee shall be £300.

(3) The annual fee shall first be payable (“the first date”) on the date on which the certificate of registration is issued, and thereafter shall be payable on the anniversary of the first date.”.

- (8) In regulation 7 (frequency of inspections – voluntary adoption agencies), for “for the purposes of an agency” substitute “for the purposes of a voluntary adoption agency”.

- (9) After regulation 7 insert—

**“Frequency of inspections – adoption support agencies**

**7A.**—(1) The Commission shall arrange for premises which are used for the purposes of an adoption support agency to be inspected a minimum of once in every 3 year period.

(2) Any inspection referred to in paragraph (1) may be unannounced.

(3) The first 3 year period shall commence on the date on which the certificate of registration is issued.”.

**Amendment of the Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004**

**33.** In regulation 2(2)(a) of the Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004(**20**) (interpretation), after “voluntary adoption agency” insert “, an adoption support agency”.

**PART 6**

**MISCELLANEOUS AMENDMENTS**

**Amendment of the Adoption Agencies Regulations 1983**

**34.**—(1) The Adoption Agencies Regulations 1983(**21**) are amended as follows.

(2) In regulation 5A (tenure of office of members) after paragraph (1A) insert—

“(1B) Where an adoption agency extended the term of office of a member of its adoption panel in accordance with paragraph (1A) and that term of office is due to expire on or before 29th December 2005, the agency may extend the term of office of that member up to (and including) 29th December 2005.”.

(3) In regulation 16 (transfer of case records)—

(a) at the beginning of paragraph (2) insert “Subject to paragraph (2A),”; and

(b) after paragraph (2) insert—

“(2A) An appropriate voluntary organisation which intends to cease to act as such and to seek to be registered as a person who carries on an adoption support agency or is treated as having applied for and been granted registration in respect of an adoption support agency may, with the approval of the registration authority, retain its case records in relation to persons adopted before 30th December 2005.”.

**Amendment of the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005**

**35.** After regulation 4 of the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005(**22**) (meaning of “intermediary service” and “intermediary agency”) insert—

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(20) S.I. [2004/662](#), to which there are amendments not relevant to these Regulations.

(21) S.I. [1983/1964](#); relevant amending instruments are S.I. [1997/649](#) and [2003/2555](#).

(22) S.I. [2005/890](#).

**“Adoption support agencies that were formerly adoption agencies**

**4A.** Where, by virtue of regulation 16(2A) of the Adoption Agencies Regulations 1983<sup>(23)</sup>, an adoption support agency keeps the information in relation to the adoption of a person adopted before 30th December 2005, any reference in these Regulations to the appropriate adoption agency in relation to that person shall be taken to be a reference to that adoption support agency.”.

30th September 2005

*Marie Eagle*  
Parliamentary Under-Secretary of State,  
Department for Education and Skills

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(23) Relevant amending instruments are S.I. 1997/649, 1997/2308, 2002/3220, 2003/367 and 2005/774. Regulation 16(2A) is inserted by regulation 35 of these Regulations.

## SCHEDULE 1

Regulation 5(1)

## INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. The aims and objectives of the agency.
2. The name and address of the registered provider and, where applicable, the registered manager and the responsible individual.
3. Any conditions for the time being in force in relation to the registration under Part 2 of the 2000 Act of the registered provider and, if applicable, the registered manager.
4. The relevant qualifications and experience of the registered provider and, if applicable, the registered manager.
5. The number, relevant qualifications and experience of the staff working for the purposes of the agency.
6. A description of the organisational structure of the agency.
7. A description of the services offered by the agency.
8. The procedures for assessing the needs of those requesting adoption support services from the agency.
9. The system in place to monitor and evaluate the provision of services to ensure that the services provided by the agency are effective and the quality of those services is of an appropriate standard.
10. A summary of the complaints procedure.
11. The name, address and telephone number of the registration authority.

## SCHEDULE 2

Regulations 7(3)(c), 9(2)(c), 19(2)(d)

## INFORMATION REQUIRED IN RESPECT OF THE RESPONSIBLE INDIVIDUAL OR PERSONS SEEKING TO MANAGE OR WORK FOR THE PURPOSES OF AN AGENCY

1. Proof of identity including a recent photograph.
2. Either—
  - (a) where the certificate is required for a purpose relating to section 115(5)(ea) of the Police Act 1997 (registration under Part 2 of the 2000 Act)(**24**), or the position falls within section 115(3) of that Act(**25**), an enhanced criminal record certificate issued under section 115 of that Act; or
  - (b) in any other case, a criminal record certificate issued under section 113 of that Act,
 including, where applicable, the matters specified in section 113(3A) or 115(6A) of that Act(**26**).
3. Two written references, including a reference from the person's most recent employer, if any.

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(24) 1997 c. 50. Section 115(5)(ea) is inserted by the Care Standards Act 2000, section 104 (c.14).

(25) A position is within section 115(3) if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18.

(26) Sections 113(3A) and 115(6A) are inserted by section 8 of the Protection of Children Act 1999 (c. 14) and amended by sections 102 and 104 of, and paragraph 25 of Schedule 4 to, the Care Standards Act 2000, section 135(2) and (3) of the Adoption and Children Act 2002 (c. 38) and Schedules 21 (paragraphs 72 and 73) and 22 (Part 3) to the Education Act 2002 (c. 32); sections 113 and 115 are repealed by the Serious Organised Crime and Police Act 2005, section 163(1) and Schedule 17, Part 2 (c.15).

4. Where a person has previously worked in a position whose duties included work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the employment or position ended.

5. Documentary evidence of any relevant qualification.

6. A full employment history, together with a satisfactory written explanation of any gaps in employment.

### SCHEDULE 3

Regulation 22(1)

#### RECORDS TO BE KEPT IN RELATION TO EACH PERSON WORKING FOR THE PURPOSES OF THE AGENCY

A record indicating in respect of each person working for the purposes of the agency—

1. Full name.
2. Sex.
3. Date of birth.
4. Home address.
5. Qualifications relevant to, and experience of, working with persons receiving adoption support services and (in relation to an agency which provides adoption support services to children) qualifications relevant to, and experience of, work involving children.
6. The dates on which he commences and ceases to be employed by the agency.
7. Whether he is employed by the registered provider under a contract of service or a contract for services, or is employed by someone other than the registered provider, or is a volunteer.
8. His job description and whether he works full-time or part-time and the number of hours for which he is employed by or contracted to work for, the registered provider each week.
9. Training undertaken by him, supervision, appraisal, disciplinary action (if any) taken against him, complaints (if any) made against or concerning him and the outcome of such complaints and any other matters in relation to his employment for the purposes of the agency.

### SCHEDULE 4

Regulation 24(1)

#### EVENTS AND NOTIFICATIONS

| <i>Column 1</i>  | <i>Column 2</i>               |                           |                           |                           |                           |
|--|-------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| <i>Event</i>   | <i>To be notified to:</i>     |                           |                           |                           |                           |
|  | <i>Registration authority</i> | <i>Primary Care Trust</i> | <i>Local Health Board</i> | <i>Relevant authority</i> | <i>Secretary of State</i> |
| Referral to Secretary of State pursuant to section 2(1)(a) of the Protection | Yes                           |                           |                           |                           |                           |

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**Status:** This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.

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| <i>Column 1</i>   | <i>Column 2</i>                   |                               |                               |                               |                                    |
|---|-----------------------------------|-------------------------------|-------------------------------|-------------------------------|------------------------------------|
| <i>Event</i>  | <i>To be notified to:</i>         |                               |                               |                               |                                    |
|   | <i>Registration<br/>authority</i> | <i>Primary<br/>Care Trust</i> | <i>Local Health<br/>Board</i> | <i>Relevant<br/>authority</i> | <i>Secretary of<br/>State</i>      |
| of Children<br>Act 1999 of<br>an individual<br>working for<br>the agency  |                                   |                               |                               |                               |                                    |
| Death or<br>serious injury<br>of a child in<br>the course<br>of receiving<br>adoption<br>support<br>services from<br>the agency | Yes                               | Yes                           | Yes                           | Yes                           | Yes (where<br>death of a<br>child) |

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## EXPLANATORY NOTE

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

These Regulations are made partly under the Care Standards Act 2000 (“the 2000 Act”) and partly under the Adoption and Children Act 2002 (“the 2002 Act”). The 2000 Act established a new regulatory system for care services in England and Wales; section 8(3) of the 2002 Act amends the 2000 Act with the effect that a person cannot carry on or manage an adoption support agency without being registered under Part 2 of the 2000 Act.

Section 2(6) of the 2002 Act provides that counselling, advice and information and any other services prescribed by regulations, in relation to adoption, are adoption support services. Regulation 3 of these Regulations prescribes further services which are adoption support services for the purposes of these Regulations. Regulation 4 provides for exceptions from the undertakings that are adoption support agencies.

Regulations 5 and 6 make provision for the statement of purpose and children’s guide. Each adoption support agency must have a statement of purpose setting out the aims and objectives of the agency. The statement of purpose must be kept under review and revised when necessary. The agency must be carried on in a manner that is consistent with the statement of purpose. An agency which provides services to children must produce a written guide to the agency which is suitable for children.

Regulations 7 to 11 make provision about the persons carrying on and managing an adoption support agency, and require a manager to be appointed for the agency in certain circumstances (regulation 8). Provision is made for the fitness of the manager, in particular by the requirement that satisfactory information be obtained in relation to the matters specified in Schedule 2 (regulation 9). Regulation 7 requires an agency that is not an individual or a partnership to nominate a responsible individual in respect of whom this information must also be available. Regulation 10 imposes general

requirements in relation to the proper conduct of an adoption support agency, and the need for appropriate training.

Regulations 12 to 23 make further provision about the conduct of an adoption support agency, in particular as to the protection of children (regulation 12), providing services appropriate to a user's needs (regulation 13), record-keeping in relation to services provided (regulation 14), adoption case records (regulation 15), complaints (regulations 16 and 17), staffing (including record-keeping in relation staff) and fitness of premises (regulations 18 to 23). The provision in regulation 15 obliges an adoption support agency that has been a voluntary adoption agency and has retained its adoption case records to comply with provisions in the Adoption Agencies Regulations 1983 about the retention and treatment of those records.

Regulation 24 provides for the registered provider and registered manager to give notice of the events described in Schedule 4 to the persons specified in that Schedule. Regulation 25 imposes requirements relating to an adoption support agency's financial position. Regulations 26 to 28 provide for the giving of notices to the registration authority and the appointment of liquidators. Regulation 29 provides for offences for contravention of, or failure to comply with, provisions in the Regulations. Regulation 30 provides that where these Regulations place a requirement on more than one person, if one of those who is obliged to meet that requirement does so, the other person is not also obliged to meet that requirement.

Regulation 31 amends the National Care Standards Commission (Registration) Regulations 2001 to require the Commission for Social Care Inspection to keep a register of adoption support agencies containing the particulars specified in Schedule 7 to the 2001 Regulations, and to add to the register of voluntary adoption agencies categories of voluntary adoption agency that provide adoption support services in addition to adoption services. Regulation 32 amends the National Care Standards Commission (Fees and Frequency of Inspections) (Adoption Agencies) Regulations 2003 ("the 2003 Regulations"). The amendments provide for the fees to be paid on an application for registration in respect of an adoption support agency, for the variation or removal of any condition that is in force in relation to a registration and for the payment of annual fees. The 2003 Regulations are also amended to provide for premises used by an adoption support agency to be inspected by the Commission for Social Care Inspection at least once in every 3 years.

Regulation 34 amends the Adoption Agencies Regulations 1983 to enable adoption agencies to extend the term of office of certain members of adoption panels, and to allow any voluntary adoption agency that is planning to become an adoption support agency to retain its adoption case records. Regulation 35 amends the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 so that an adoption support agency holding information in relation to an adopted person does not provide intermediary services to that person in simply providing him with information about his adoption.

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/>.