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STATUTORY INSTRUMENTS

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**2005 No. 2720**

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

**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<sup>(1)</sup> 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
- (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.

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(1) 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).

(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.