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STATUTORY INSTRUMENTS

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**2005 No. 389**

**The Adoption Agencies Regulations 2005**

**PART 8**

**MISCELLANEOUS**

**Modification of 1989 Act in relation to adoption**

**45.**—(1) This paragraph applies where—

- (a) a local authority are authorised to place a child for adoption; or
- (b) a child who has been placed for adoption by a local authority is less than 6 weeks old.

(2) Where paragraph (1) applies—

- (a) section 22(4)(b) of the 1989 Act shall not apply;
- (b) section 22(4)(c) of the 1989 Act shall apply as if for that sub-paragraph there were inserted “(c) any prospective adopter with whom the local authority has placed the child for adoption.”;
- (c) section 22(5)(b) of the 1989 Act shall apply as if for the words “(4)(b) to (d)” there were inserted “(4)(c) and (d)”;
- (d) paragraphs 15 and 21 of Schedule 2 to the 1989 Act shall not apply.

(3) This paragraph applies where a registered adoption society is authorised to place a child for adoption or a child who has been placed for adoption by a registered adoption society is less than 6 weeks old.

(4) Where paragraph (3) applies—

- (a) section 61(2)(a) of the 1989 Act is to have effect in relation to the child whether or not he is accommodated by or on behalf of the society;
- (b) section 61(2)(b) of the 1989 Act shall not apply; and
- (c) section 61(2)(c) of the 1989 Act shall apply as if for that sub-paragraph there were inserted “(c) any prospective adopter with whom the registered adoption society has placed the child for adoption.”.

**Contact**

**46.**—(1) This paragraph applies where an adoption agency decides that a child should be placed for adoption.

(2) Where paragraph (1) applies and subject to paragraph (3), the adoption agency must consider what arrangements it should make for allowing any person contact with the child once the agency is authorised to place the child for adoption (“the contact arrangements”).

(3) The adoption agency must—

- (a) take into account the wishes and feelings of the parent or guardian of the child and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child;

(b) take into account any advice given by the adoption panel in accordance with regulation 18(3); and  
 (c) have regard to the considerations set out in section 1(2) and (4) of the Act,  
 in coming to a decision in relation to the contact arrangements.

(4) The adoption agency must notify—

- (a) the child, if the agency considers he is of sufficient age and understanding;
- (b) if their whereabouts are known to the agency, the parent or guardian, and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child;
- (c) any person in whose favour there was a provision for contact under the 1989 Act which ceased to have effect by virtue of section 26(1) of the Act<sup>(1)</sup>; and
- (d) any other person the agency considers relevant,

of the contact arrangements.

(5) Where an adoption agency decides that a child should be placed for adoption with a particular prospective adopter, the agency must review the contact arrangements in light of the views of the prospective adopter and any advice given by the adoption panel in accordance with regulation 32(3).

(6) If the adoption agency proposes to make any change to the contact arrangements which affects any person mentioned in paragraph (4), it must seek the views of that person and take those views into account in deciding what arrangements it should make for allowing any person contact with the child while he is placed for adoption with the prospective adopter.

(7) The adoption agency must—

- (a) set out the contact arrangements in the placement plan; and
- (b) keep the contact arrangements under review.

### **Contact: supplementary**

**47.**—(1) Where an adoption agency has decided under section 27(2) of the Act to refuse to allow the contact that would otherwise be required by virtue of an order under section 26 of the Act, the agency must, as soon as the decision is made, inform the persons specified in paragraph (3) and notify them of the decision, the date of the decision, the reasons for the decision and the duration of the period.

(2) The terms of an order under section 26 of the Act may be departed from by agreement between the adoption agency and any person for whose contact with the child the order provides subject to the following conditions—

- (a) where the child is of sufficient age and understanding, subject to his agreement;
- (b) where the child is placed for adoption, subject to consultation before the agreement is reached, with the prospective adopter with whom the child is placed for adoption; and
- (c) written confirmation by the agency to the persons specified in paragraph (3) of the terms of that agreement.

(3) The following persons are specified for the purposes of paragraphs (1) and (2)—

- (a) the child, if the adoption agency considers he is of sufficient age and understanding;
- (b) the person in whose favour the order under section 26 was made; and
- (c) if the child is placed for adoption, the prospective adopter.

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(1) For the definition of “a provision for contact under the 1989 Act” see section 26(6) of the Act.

