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WELSH STATUTORY INSTRUMENTS

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**2005 No. 1512 (W.116)**

**CHILDREN AND YOUNG PERSONS, WALES**

**The Adoption Support Services (Local Authorities) (Wales) Regulations 2005**

*Made* - - - - 7 June 2005

*Coming into force* - - 30 December 2005

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 2(6)(b) and (7), 3(3) and (4)(b), 4(1)(b), (5)(b) (6) and (7), 9(1)(a), 140(1), (7) and (8) and 142(1) of the Adoption and Children Act 2002(1), hereby makes the following Regulations —

**Title, commencement and application**

1.—(1) The title of these Regulations is the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 and they come into force on 30 December 2005.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2.—(1) In these Regulations —

“the 2002 Act” (“*Deddf 2002*”) means the Adoption and Children Act 2002;

“the Adoption Agencies (Wales) Regulations” (“*Rheoliadau Asiantaethau Mabwysiadu (Cymru)*”) means the Adoption Agencies (Wales) Regulations 2005(2);

“adoption support services” (“*gwasanaethau cymorth mabwysiadu*”) is to be construed in accordance with regulation 3(1);

“adoptive child” (“*plentyn mabwysiadol*”) means, subject to paragraph (3), a child who is an agency adoptive child or a non-agency adoptive child;

“adoptive family” (“*teulu mabwysiadol*”) means an adoptive child, the adoptive parent of the adoptive child, and any child of the adoptive parent, and references to the adoptive family of or in relation to a person, are to be construed as the adoptive family of which that person is a member;

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(1) 2002 c. 38. The powers are exercisable by the “appropriate Minister”, defined, in relation to Wales, as the National Assembly for Wales (*see* section 144(1)). The “appropriate Minister” is defined in section 144(1), in relation to England, Scotland and Northern Ireland, as the Secretary of State.

(2) S.I. 2005/1313 (W.95).

“adoptive parent” (*“rhiant mabwysiadol”*) means a person —

- (a) who an adoption agency has decided in accordance with regulation 34 of the Adoption Agencies (Wales) Regulations would be a suitable adoptive parent for a particular child;
- (b) with whom an adoption agency has placed a child for adoption;
- (c) who has given notice under section 44 of the 2002 Act of intention to apply for an adoption order for a child; or
- (d) who has adopted a child,

but does not include a person where the child referred to has ceased to be a child, or where the person is the step-parent or natural parent of the child, or was the step-parent of the child before adopting the child;

“agency adoptive child” (*“plentyn mabwysiadol drwy asiantaeth”*) means a child —

- (a) in respect of whom an adoption agency has decided in accordance with regulation 34 of the Adoption Agencies (Wales) Regulations that a person would be a suitable adoptive parent for the child;
- (b) whom an adoption agency has placed for adoption; or
- (c) who has been adopted after having been placed for adoption by an adoption agency;

“child” (*“plentyn”*) means, subject to paragraph (3), a person who has not attained the age of 18 years;

“child of an adoptive parent” (*“plentyn rhiant mabwysiadol”*), in any case where the provision of adoption support services, or any assessment in respect of adoption support services, is in relation to the adoption or prospective adoption of an adoptive child by an adoptive parent, means a child, other than that adoptive child, of the adoptive parent;

“child tax credit” (*“credyd treth plant”*) has the same meaning as in the Tax Credits Act 2002(3);

“foster parent” (*“rhiant maeth”*) has the same meaning as in the Fostering Services (Wales) Regulations 2003(4);

“income support” (*“cymhorthdal incwm”*) means income support under Part VII of the Social Security Contributions and Benefits Act 1992(5);

“jobseeker’s allowance” (*“lwfans ceisio gwaith”*) has the same meaning as in the Jobseekers Act 1995(6);

“local education authority” (*“awdurdod addysg lleol”*) has the same meaning as in the Education Act 1996(7);

“non-agency adoptive child” (*“plentyn mabwysiadol heb fod drwy asiantaeth”*) means a child —

- (a) in respect of whom a person —
  - (i) has given notice under section 44 of the 2002 Act of intention to apply for an adoption order; and
  - (ii) is not the natural parent or step-parent of the child; or
- (b) who has been adopted by a person who —
  - (i) is not the natural parent of the child; and

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(3) 2002 c. 21. See section 8 for the definition of child tax credit.

(4) S.I. 2003/237 (W.35).

(5) 1992 c. 4.

(6) 1995 c. 18.

(7) 1996 c. 56.

- (ii) was not the step-parent of the child before adopting the child, but does not include an agency adoptive child;

“notify” (“*hysbysu*”) means notify in writing;

“person entitled to be assessed” (“*person sydd â'r hawl i gael ei asesu*”) means a person specified in section 4(1)(a) of the 2002 Act or in regulation 5(1);

“plan” (“*cynllun*”) is to be construed in accordance with regulation 10;

“related person” (“*person perthynol*”) means —

- (a) a relative within the meaning of section 144(1) of the 2002 Act; or
- (b) any person with whom the adoptive child has a relationship which appears to the local authority to be beneficial to the welfare of the child having regard to the matters referred to in sub-paragraphs (i) to (iii) of section 1(4)(f) of the 2002 Act.

(2) In these Regulations —

- (a) any reference to a child who is looked after by a local authority has the same meaning as it has in the Children Act 1989(8);
- (b) any reference to a person’s adoptive child is to a child who is an adoptive child in relation to that person;
- (c) any reference to a child’s adoptive parent is to a person who is an adoptive parent in relation to that child;
- (d) references (other than references in this sub-paragraph) to a child being placed, or being placed for adoption —
  - (i) are to the child being placed for adoption with a prospective adopter by an adoption agency;
  - (ii) include, where a looked after child is living with a person, leaving the child with that person as a prospective adopter.

(3) In any case where —

- (a) a person has attained the age of 18 years and is in full-time education or training; and
- (b) immediately before attaining the age of 18 years —
  - (i) that person was an adoptive child; and
  - (ii) financial support was payable in relation to that person,

the definitions of “adoptive child” and “child”, for the purposes of the continued provision of financial support and any review of financial support, are to have effect as if that person had not attained the age of 18 years.

### **Prescribed services**

3. For the purposes of section 2(6) of the 2002 Act (definition of “adoption support services”), the following services are prescribed —

- (a) financial support payable under regulation 11;
- (b) services to enable groups of adoptive children, adoptive parents and natural parents of an adoptive child to discuss matters relating to adoption;
- (c) assistance to adoptive children, adoptive parents, natural parents of an adoptive child and related persons in relation to arrangements for contact between an adoptive child and a natural parent or a related person of the adoptive child;

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(8) 1989 c. 41. See section 22(1) for the definition of a child who is looked after by a local authority.

- (d) services that may be provided to an adoptive family in relation to the therapeutic needs of an adoptive child;
- (e) assistance for the purpose of ensuring the continuance of the relationship between the child and the child's adoptive parent, including —
  - (i) training for adoptive parents for the purpose of meeting any special needs of the child; and
  - (ii) respite care; and
- (f) assistance where disruption of an adoption placement has occurred or is in danger of occurring including —
  - (i) mediation; and
  - (ii) organising and holding meetings to discuss disruptions in adoption placements.

#### **Persons for whom arrangements must be in place**

4.—(1) This regulation prescribes, for the purposes of section 3(3)(a) of the 2002 Act, the description of persons for whom arrangements for the provision of adoption support services must be in place.

- (2) Counselling advice and information to —
  - (a) children who may be adopted, their adoptive parents, natural parents and guardians;
  - (b) persons wishing to adopt a child;
  - (c) adopted persons, their adoptive parents, natural parents and former guardians; and
  - (d) children who are natural siblings (whether of full blood or half blood) of an adoptive child.
- (3) Financial support under regulation 11 for an adoptive parent of an adoptive child.
- (4) The services mentioned in regulation 3(b) (services to enable discussion) must be in place for —
  - (a) an adoptive parent of an agency adoptive child;
  - (b) an agency adoptive child; and
  - (c) a natural parent whose child has been placed for adoption by an agency or has been adopted following such a placement.
- (5) The services mentioned in regulation 3(c) (contact) must be in place for —
  - (a) an adoptive parent of an agency adoptive child;
  - (b) an agency adoptive child;
  - (c) a natural parent whose child has been placed for adoption by an agency or has been adopted following such placement; and
  - (d) a related person.
- (6) The services mentioned in regulation 3(d) (therapeutic services) must be in place for—
  - (a) an agency adoptive child; and
  - (b) an adoptive child in respect of whom the restrictions in section 83 of the 2002 Act (restrictions on bringing children in) apply; and
  - (c) an adoptive child in the case of a Convention adoption order.
- (7) The services mentioned in regulation 3(e) and (f) (assistance for the purposes of ensuring the continuance of relationships and assistance where disruption of an adoption placement has occurred) must be in place for —
  - (a) an agency adoptive child; and

- (b) an adoptive child in respect of whom the restrictions in section 83 of the 2002 Act (restrictions on bringing children in) apply;
- (c) an adoptive child in the case of a Convention adoption order;
- (d) an adoptive parent of a child mentioned in (a) to (c); and
- (e) a child of such an adoptive parent.

(8) The arrangements referred to in paragraph (1) in respect of any service are required to be made whether or not the local authority has decided to provide the service to any person.

(9) The services specified in section 2(6)(a) of the 2002 Act or prescribed in regulation (3)(b) to (f) may include making arrangements with other persons for the purpose of providing those services.

### **Provision of services**

**5.—**(1) The following persons are prescribed for the purposes of section 3(4)(b) of the Act (persons other than registered adoption societies who may provide the requisite facilities) in relation to the provision of adoption support services —

- (a) another local authority;
- (b) a registered adoption support agency;
- (c) a local health board;
- (d) an NHS Trust;
- (e) a Primary Care Trust; and
- (f) a local education authority.

(2) In paragraph (1) “registered adoption support agency” means an adoption support agency registered under Part 2 of the Care Standards Act 2000<sup>(9)</sup> but, in relation to the provision of any adoption support service, does not include an adoption support agency which is not registered in respect of that particular service.

### **Adoption support services adviser**

**6.—**(1) The local authority must appoint at least one person (an “adoption support services adviser”) to carry out the functions specified in paragraph (2).

(2) The functions of the adoption support services adviser are to:

- (a) give advice and information to persons who may be affected by the adoption or proposed adoption of a child, including as to —
  - (i) services that may be appropriate to those persons; and
  - (ii) how those services may be made available to them;
- (b) give advice, information and assistance to the local authority which appointed him or her, including as to —
  - (i) the assessment of needs for adoption support services in accordance with regulation 8;
  - (ii) the availability of adoption support services and other local services; and
  - (iii) the formulation of plans in accordance with regulation 10; and
- (c) give advice, information and assistance to another local authority including as to the matters specified in sub-paragraph (b) where —

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(9) 2000 c. 14.

- (i) a child is to be placed for adoption by the local authority referred to in sub-paragraph (b) in that other local authority's area; or
  - (ii) a person in respect of whom there is a plan in place moves from the area of the local authority referred to in sub-paragraph (b) to the area of that other local authority.
- (3) The local authority must not appoint a person as an adoption support services adviser unless satisfied that the knowledge and experience of that advisor of —
- (a) the process of adoption; and
  - (b) the effect of the adoption of a child on persons likely to be affected by the adoption, is sufficient for the purposes of the work that the advisor is to perform.

### **Requirement for assessment**

7.—(1) The following persons are prescribed for the purposes of section 4(1)(b) of the 2002 Act (assessments etc. for adoption support services) —

- (a) a child of an adoptive parent;
- (b) a child who is the natural brother or sister (whether of the full blood or half blood) of an adoptive child; and
- (c) a related person in relation to arrangements for contact between that person and an adoptive child where arrangements for such contact have been made before the request for an assessment.

(2) Where a person who falls within section 4(1)(a) of the 2002 Act or within paragraph (1) of this regulation requests an assessment, and the request relates to a particular adoption support service, or it appears to the local authority that the person's needs for adoption support services may be adequately assessed by reference to a particular adoption support service, the local authority may carry out the assessment by reference only to that service.

(3) In this regulation a reference to a particular adoption support service is to any of the following services —

- (a) counselling, advice and information in relation to adoption; or
- (b) a service specified in regulation 3.

(4) Where a local authority ("the placing authority") is considering the placement of a child who is looked after with a prospective adopter who is resident in the area of another local authority ("the recovering authority") the placing authority must consult the recovering authority in writing about the placement and the result of the assessments undertaken in accordance with section 4(1) and (2) of the 2002 Act and in particular about the ability of the agencies in the area of the recovering authority to provide any identified adoption support services.

(5) A placing authority must allow a period of 20 working days following the consultation undertaken in accordance with paragraph (4) before the placement of the child can be considered by the adoption panel in accordance with regulation 18 of the Adoption Agencies (Wales) Regulations.

(6) Where a recovering authority has responded in writing to the consultation undertaken in accordance with paragraph (4), that response must be taken into account by the adoption panel when considering the placement of the child in accordance with regulation 18 of the Adoption Agencies (Wales) Regulations and by the adoption agency in accordance with regulation 19 of the Adoption Agencies (Wales) Regulations.

### **Procedure for assessment**

**8.—**(1) Where an assessment of needs for adoption support services is requested by a person entitled to be assessed and the local authority carries out an assessment of that person's needs for those services it must, in carrying out the assessment, have regard to the following considerations —

- (a) subject to paragraph (3), the needs of the person being assessed and how these might be met;
- (b) the needs of the adoptive child and the adoptive family and how these might be met;
- (c) in the case of a child who was placed for adoption, the circumstances that led to the child being placed for adoption;
- (d) any special needs of the adoptive child arising from the fact that —
  - (i) the child has been looked after by a local authority;
  - (ii) the child has been habitually resident outside the British Islands;
  - (iii) the adoptive parent is a relative of the child.

(2) The assessment of a person's needs for adoption support services must be carried out by, or under the supervision of, a person who has suitable qualifications, experience and skills necessary for the purposes of the assessment.

(3) Where the assessment referred to in paragraph (1) is being carried out at the request of a related person, the local authority must have regard to the needs of that person only so far as they relate to his or her need for assistance so as to enable him or her to take part in arrangements for contact with the adoptive child that were made before the request for an assessment.

(4) Where paragraph (1) applies and it appears to the local authority that there may be a need for the provision of services for the person whose needs are being assessed —

- (a) by a local health board, NHS Trust or Primary Care Trust; or
- (b) which fall within the functions of a local education authority,

the local authority must, as part of the assessment, consult that local health board, NHS Trust, Primary Care Trust or local education authority.

(5) The local authority must when carrying out an assessment under this regulation and where it considers it appropriate to do so —

- (a) interview the person, and where the person is an adoptive child, the adoptive parents; and
- (b) prepare a written report of the assessment.

### **Notification of assessment**

**9.—**(1) After carrying out an assessment under regulation 8 the local authority must, in accordance with regulation 13 —

- (a) supply the information specified in paragraph (2); and
- (b) give notice of the right to make representations as specified in paragraph (3).

(2) The information specified is —

- (a) a statement of the needs for adoption support services of the person whose needs were assessed;
- (b) the services, if any, which it is proposed to provide to the person;
- (c) where the assessment relates to the person's need for financial support —
  - (i) the basis on which that financial support is determined;
  - (ii) the proposed amount which would be payable;

- (d) any conditions which the local authority proposes to impose on the provision of that financial support in accordance with regulation 13(3); and
  - (e) details in relation to the right to make representations in accordance with paragraph (3).
- (3) The person notified in accordance with paragraph (2) has the right to make representations to the local authority concerning the proposal in paragraph (2)(b) within a period specified by the local authority.
- (4) The local authority must not make a decision under regulation 13 until —
- (a) the person referred to in paragraph (3) has —
    - (i) made representations to the local authority; or
    - (ii) notified the local authority that he or she is satisfied with the proposed decision; or
  - (b) the period specified in the notice given under paragraph (1)(b) for making representations has expired.

### **Plan**

- 10.**—(1) The circumstances prescribed for the purposes of section 4(5)(b) of the 2002 Act are that the local authority proposes to provide adoption support services on more than a single occasion only.
- (2) The local authority must give notice of the plan referred to in section 4(5) of the 2002 Act (referred to in these Regulations as “the plan”) to the persons referred to in regulation 13(2).
- (3) The local authority must for the purpose of preparing the plan consult —
- (a) any person who is to be given notice under regulation 14;
  - (b) where it appears to the local authority that —
    - (i) there may be a need for the provision of services to that person by a local health board, NHS Trust or Primary Care Trust; or
    - (ii) there may be a need for the provision to that person of any services which fall within the functions of a local education authority,
 that local health board, NHS Trust or Primary Care Trust or local education authority.
- (4) If the local authority decides under regulation 13 to provide any adoption support services to a person, and is required under that regulation to give notice of that decision, it must —
- (a) nominate an individual who must monitor the provision of the services that are to be provided; and
  - (b) notify the person of the nomination when it notifies that person of its decision under regulation 13.
- (5) The local authority must provide a copy of the plan —
- (a) in accordance with regulation 13;
  - (b) where paragraph (3)(b)(i) applies, to the local health board, NHS Trust or Primary Care Trust;
  - (c) where paragraph (3)(b)(ii) applies, to the local education authority; and
  - (d) where the person to whom the plan relates lives in another local authority area, to that local authority.

### **Circumstances in which financial support can be paid**

- 11.**—(1) Financial support can be paid only to an adoptive parent, and only where one or more of the circumstances specified in paragraph (2) exists.



- (2) The circumstances referred to in paragraph (1) are —
- (a) where the child has not been placed with the adoptive parent for adoption, and financial support is necessary to ensure that the adoptive parent can look after the child if so placed;
  - (b) where the child has been placed with the adoptive parent for adoption, and financial support is necessary to ensure that the adoptive parent can continue to look after the child;
  - (c) where the child has been adopted, and financial support is necessary to ensure that the adoptive parent can continue to look after the child;
  - (d) where the local authority is satisfied that the child has established a strong and important relationship with the adoptive parent before the adoption order is made;
  - (e) where it is desirable that the child be placed with the same adoptive parent as a brother or sister (whether of the full blood or half blood), or with a child with whom the child has previously shared a home;
  - (f) where the child needs special care which requires a greater expenditure of resources by reason of illness, disability, emotional or behavioural difficulties or the continuing consequences of past abuse or neglect;
  - (g) where on account of the age, sex or ethnic origin of the child it is necessary for the local authority to make special arrangements to facilitate the placement of the child for adoption.
- (3) Before financial support is payable the local authority must require the adoptive parents to have agreed to —
- (a) inform the local authority immediately if —
    - (i) they change their address;
    - (ii) the child's home is no longer with them (or either of them), or the child dies; or
    - (iii) there is any change in their financial circumstances or the financial needs or resources of the child;
  - (b) and, where the information is given orally, to confirm it in writing within seven days;
  - (c) complete and supply the local authority with an annual statement of their financial circumstances and the needs and financial circumstances of the child.

### **Amount of financial support**

**12.**—(1) This regulation applies where the local authority carries out an assessment of a person's need for financial support.

(2) Where paragraph (4) applies, and paragraph (5) does not apply, in determining the amount of financial support the local authority must take into account such of the considerations in paragraph (6) as are relevant to the case in question.

(3) Where paragraph (5) applies, in determining the amount of financial support, the local authority may not take into account any of the considerations in paragraph (6).

(4) This paragraph applies where the local authority is considering providing financial support in respect of expenditure for the purposes of supporting the placement of the child with the adoptive parents for adoption and the continuation of that placement following the making of an adoption order, including —

- (a) legal costs, including fees payable to a court, in relation to the adoption of the child;
- (b) cost of equipment for the purpose of meeting any special needs of the child;
- (c) expenditure necessary for the purpose of continuing to accommodate the child, including the provision of furniture and domestic equipment, alterations to and adaptations of the

home, provision of means of transport and provision of clothing, toys and other items necessary for the purpose of looking after the child;

- (d) cost of damage in the home where the child is accommodated where such cost arises out of special behavioural difficulties of the child;
- (e) the cost of placing a child in a boarding school where the placement is necessary to meet the special needs of the child;
- (f) the cost of meeting the special needs of the child, including needs arising out of a serious disability or illness;
- (g) expenditure on travel for the purpose of visits between the child and a related person.

(5) This paragraph applies where the local authority is considering providing financial support in respect of—

- (a) expenditure for the purpose of introducing the child to the adoptive parent; or
- (b) the legal costs of the adoptive parent where an adoption order is applied for in respect of a child who is looked after by the local authority, the local authority supports the making of that order and the making of the order is opposed by another person.

(6) The considerations are—

- (a) any recommendations, in relation to the adoptive parent or the adoptive child, made by the adoption panel to the local authority on a matter referred to in regulations 18 and 27(1) of the Adoption Agencies (Wales) Regulations;
- (b) the financial resources available to the adoptive parents including child tax credit and any other financial benefit which would be available in respect of the child if the child lived with them;
- (c) the amount required by the adoptive parents in respect of their reasonable outgoings and commitments (excluding outgoings in respect of the child); and
- (d) the financial needs and resources of the child.

(7) Financial support will not be paid to meet any needs in so far as any benefit or allowance applicable to the adoptive parents as a result of their adoption of the child, is payable or available to them in respect of those needs.

(8) Except where paragraphs (9) and (10) apply, the financial support payable by the local authority may not include any element of remuneration for the care of the child by the adoptive parents.

(9) This paragraph applies where—

- (a) the adoptive parent is or has been a foster parent in respect of the child;
- (b) it appears to the local authority that any financial assistance or allowances given to the adoptive parents in respect of their fostering of the child has ceased, or will cease;
- (c) the local authority have decided in accordance with regulation 28 of the Adoption Agencies (Wales) Regulations that the adoptive parent would be a suitable adoptive parent for the child; and
- (d) before the adoption order is made the local authority decide to pay financial support and determine that the financial support is to be paid periodically.

(10) This paragraph applies—

- (a) at any time until the day (“the second anniversary”) occurring two years after the date of the adoption in respect of the child; and

- (b) at any time after the second anniversary, in a case where any of the circumstances specified in regulation 11(2)(a), (b), (e), (f) or (g) exists on the date on which the local authority decide to pay financial support.

### **Decision to provide support**

**13.**—(1) The local authority must, having regard to the assessment and any representations made following the notice given in accordance with regulation 9, decide —

- (a) whether the person has needs for adoption support services;
- (b) if so, whether to provide any such services to that person; and
- (c) the conditions, if any, which are to be imposed in accordance with paragraph (3)

and, subject to paragraph (5), must give notice in writing of that decision, which must include the reasons for the decision and a copy of the plan referred to in regulation 10.

(2) Where the plan referred to in regulation 10(2) includes the provision of services by a local health board, NHS Trust, Primary Care Trust or a local education authority, the local authority must give a copy of that part of the plan that refers to such services to the local health board, NHS Trust, Primary Care Trust and or the local education authority, as appropriate.

(3) The local authority may impose such conditions as it considers appropriate upon the payment of financial support, which may include conditions as to —

- (a) the timescale within which and the purposes for which the payment should be utilised; and
- (b) the requirement to comply with the agreement referred to in regulation 11(3).

(4) Where the local authority decides that financial support is to be paid, it must be paid as a single payment except that if —

- (a) the local authority and the person to whom financial support is to be paid agree; or
- (b) the local authority decides that financial support is to be paid to meet any needs which are likely to give rise to expenditure which is likely to be recurring;
- (c) it can be paid —
  - (i) in instalments on such dates as the local authority may specify; or
  - (ii) periodically until such date (if any) as the local authority may specify.

(5) The following matters must be specified in the notice under paragraph (1) —

- (a) the method of the determination of the amount of financial support;
- (b) where financial support is to be paid in instalments or periodically —
  - (i) the amount of financial support;
  - (ii) the frequency with which the payment will be made;
  - (iii) the date (if any) until which financial support is to be paid;
  - (iv) the date of the first payment of financial support;
- (c) where financial support is to be paid as a single payment, the date on which the payment is to be made;
- (d) where financial support is to be paid subject to any conditions imposed in accordance with paragraph (3), those conditions, the date (if any) by which the conditions are to be met and the consequences of failing to meet the conditions;
- (e) the arrangements and procedure for review, variation and termination of financial support;
- (f) the responsibilities of —
  - (i) the local authority under regulation 17 (review of financial support); and

- (ii) the adoptive parents pursuant to their agreement under regulation 11(3).

## Notices

**14.** Any information required to be supplied, or notice required to be given, under regulations 9, 10 and 13, must be given in writing —

- (a) where the person whose needs for adoption support services have been assessed is an adult, to that person;
- (b) where the person whose needs for adoption support services is a child —
  - (i) to the child; and
  - (ii) except where it appears inappropriate to the local authority to do so, to —
    - (aa) the person who an adoption agency has decided in accordance with regulation 34 of the Adoption Agencies (Wales) Regulations would be a suitable adoptive parent for the child;
    - (bb) the person with whom the child has been placed for adoption;
    - (cc) the person by whom the child has been adopted; or
 if no person falls within heads (aa) to (cc) of this sub-paragraph, the person who proposes to adopt the child.

## Responsibilities of local authorities for out of area placements

**15.**—(1) Subject to paragraph (2), section 4 of the 2002 Act applies to a local authority in respect of the following persons who are outside the local authority’s area —

- (a) an agency adoptive child whom the authority has placed for adoption or who has been adopted after being placed for adoption by the authority;
- (b) an adoptive parent of such a child; and
- (c) a child of such an adoptive parent.

(2) Section 4 of the 2002 Act ceases to apply in the circumstances mentioned in paragraph (1) at the end of the period of three years from the date of the adoption, except in a case where the local authority is providing financial support and the decision to provide that support was made before the adoption, when regulation 17(9) will apply.

(3) Where —

- (a) a local authority (“the placing authority”) has placed a child for adoption;
- (b) fewer than three years have elapsed from the date of the adoption;
- (c) the placing authority has requested the help of another local authority (“the recovering authority”) pursuant to section 4(10) of the 2002 Act; and
- (d) the recovering authority has complied with that request in accordance with section 4(11) of the 2002 Act,

the recovering authority may recover from the placing authority the expenses of providing such help.

(4) Paragraph (3) does not apply where the service provided by the recovering authority is advice and information under section 2(6)(a) of the 2002 Act.

(5) Nothing in this regulation prevents a local authority from providing adoption services to person outside their area where they consider it appropriate to do so.

### **Review of the provision of adoption support services**

16.—(1) Where the local authority is providing, or has in the preceding twelve months provided, adoption support services for a person, it must review the provision of such services if any change in the person's circumstances comes to their notice.

(2) Paragraphs (1) to (4) of regulation 8 apply to a review under this regulation as they apply to an assessment under regulation 8.

(3) The local authority must, having regard to the review —

- (a) decide whether to vary the provision of adoption support services for the person; and
- (b) review, and where appropriate, revise the plan prepared under regulation 10.

(4) If the local authority decides to vary the provision of adoption support services for the person, or revise the plan, it must give notice in accordance with paragraph (1) of regulation 9; and paragraphs (3) and (4) of that regulation apply to this paragraph as they apply to paragraph (1)(b) of that regulation.

### **Review of financial support**

17.—(1) The local authority must review any financial support —

(a) annually, on receipt of a statement from the adoptive parents as to —

- (i) their financial circumstances;
- (ii) the financial needs and resources of the child;
- (iii) their address and whether the child still has a home with them (or either of them); and

(b) if any change in the circumstances of the adoptive parents or the child, including any change of address, comes to their notice.

(2) Paragraphs (3) to (6) will apply where financial support is payable in instalments or periodically.

(3) The local authority may vary, suspend or terminate payment of the financial support if, as a result of a review, it considers that the adoptive parents' need for it has changed or ceased since the amount of financial support was last determined.

(4) Subject to paragraph (5), where any condition imposed in accordance with regulation 13(3) is not complied with, the local authority may —

- (a) review, suspend or cease payment of financial support; and
- (b) seek to recover all or part of the financial support they have paid.

(5) Where the condition not complied with is the requirement to provide an annual statement in accordance with an agreement referred to in regulation 11(3)(c), the local authority shall not take any steps under paragraph (4) until —

- (a) they have sent to the person who entered into the agreement a written reminder of the need to provide an annual statement; and
- (b) 28 days have expired since the date on which that reminder was sent.

(6) Where, having taken the steps specified in paragraph (5), the local authority determine under paragraph (4) that payment of financial support should be suspended, they may lift that suspension on receipt of the annual statement referred to in regulation 11(3)(c).

(7) The local authority must terminate payment of financial support when —

- (a) the child ceases to have a home with the adoptive parents (or either of them);
- (b) the child ceases full-time education or training and commences employment;
- (c) the child qualifies for income support or jobseeker's allowance in his or her own right; or

(d) the child attains the age of 18, unless the child continues in full-time education or training, when it may continue until the end of the course of education or training which the child is then undertaking.

(8) Regulations 9, 10 and 12 apply in relation to a review under this regulation as they apply in relation to an assessment under regulation 8.

(9) If the local authority decides to vary, suspend or terminate payment of the financial support, or revise the plan, it must give notice of the proposal in accordance with regulation 9(1), which must include the reasons for the proposal and paragraphs (3) and (4) of regulation 13 apply to a decision under paragraph (3) as they apply to a decision under paragraph (1) of that regulation.

### **Revocations and transitional provision**

**18.**—(1) Subject to paragraph (2), the Adoption Allowance Regulations 1991<sup>(10)</sup> and the Adoption Support Services (Local Authorities) (Wales) Regulations 2004<sup>(11)</sup> (“the 2004 Regulations”) are revoked.

(2) Any assessment, plan or adoption support service which is in the course of preparation, in place or, as the case may be, being provided (“being provided” refers to a service) under the 2004 Regulations immediately before the date on which these Regulations come into force is to be treated, with effect from that date, as an assessment, plan or service under these Regulations.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(12)</sup>

7 June 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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<sup>(10)</sup> S.I. 1991/2030.

<sup>(11)</sup> S.I. 2004/1011 (W.108).

<sup>(12)</sup> 1998 c. 38.

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## EXPLANATORY NOTE

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

These Regulations make provision for local authorities in Wales to provide adoption support services as part of the service maintained by them under section 3(1) of the Adoption and Children Act 2002.

Adoption support services are defined by section 2(6) of the Adoption and Children Act 2002 as counselling, advice and information, and other services prescribed by regulations, in relation to adoption. Such services are prescribed in regulation 3 of these Regulations, and include financial support (regulation 3(a)). Each local authority is required to appoint an adoption support services adviser to give advice and information to persons who may be affected by the adoption of a child (regulation 6).

Regulation 5 prescribes those persons who can provide adoption support.

Regulation 7 prescribes the persons, other than those mentioned in section 3(1) of the Act, who are entitled to an assessment of their needs for adoption support services. Regulation 8 specifies the procedure for assessment. After carrying out an assessment the local authority must give notice under regulation 9 of the adoption support services it proposes to provide. Regulation 10 requires the preparation of a plan in accordance with which services must be provided. Regulation 11 specifies the persons to whom financial support may be paid, and the circumstances in which it may be paid. Regulation 12 provides for the amount of financial support that is payable. Regulation 13 requires the local authority to decide, having regard to the assessment, its proposals notified under regulation 9, and any representations made in relation to these proposals, what services it is to provide and any conditions to be imposed, and to give notice of that decision.

Regulation 15 describes the responsibilities of local authorities for out of area placements and empowers a local authority to recover the cost of providing services from the authority who has placed a child for adoption in their area.

Regulations 16 and 17 provide for review of the provision of adoption support services and financial support.

By regulation 18, the Adoption Allowance Regulations 1991 and the Adoption Support Services (Local Authorities) (Wales) Regulations 2004 are revoked, and transitional provision is made.