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WELSH STATUTORY INSTRUMENTS

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**2014 No. 567 (W. 68)**

**CHILDREN AND YOUNG PERSONS, WALES**

**The Adoption Agencies (Wales)  
(Amendment) Regulations 2014**

<i>Made</i>	- - - -	<i>10 March 2014</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>11 March 2014</i>
<i>Coming into force</i>	- -	<i>1 April 2014</i>

The Welsh Ministers, in exercise of the powers conferred by sections 9(1)(a), 140(7) and (8) and 142(4) and (5) of the Adoption and Children Act 2002(1)(2), make the following regulations:

**Title, commencement, application and interpretation**

1.—(1) The title of these Regulations is the Adoption Agencies (Wales) (Amendment) Regulations 2014.

(2) These Regulations come into force on 1 April 2014.

(3) These Regulations apply in relation to Wales.

(4) In these Regulations “the Principal Regulations” (“*y Prif Reoliadau*”) means the Adoption Agencies (Wales) Regulations 2005(3).

**Amendment of the Principal Regulations**

2.—(1) In regulation 2 of the Principal Regulations (interpretation) in paragraph (1)—

(a) in the definition of “adoption panel” (“*panel mabwysiadu*”) for the words “regulation 3” substitute “regulation 4”;

(b) in the definition of “independent person” (“*person annibynnol*”) for the words “regulation 3” substitute “regulation 4(8)”; and

(c) in the definition of “joint adoption panel” (“*panel mabwysiadu ar y cyd*”) for the words “regulation 3(5)” substitute “regulation 4(3)”.

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(1) [2002 c.38](#). For the definition of “regulations”, see section 144(1).

(2) The power conferred on the National Assembly for Wales to make regulations under the Adoption and Children Act 2002 was transferred to the Welsh Ministers under section 162(1) and paragraph 30 of Schedule 11 of the Government of Wales Act 2006 ([2006 c.32](#)).

(3) [S.I. 2005/1313 \(W.95\)](#).

(2) For regulations 3 to 9 (adoption agency – arrangements for adoption work) of the Principal Regulations substitute—

**“The central list**

**3.—**(1) Subject to regulation 5, an adoption agency must maintain a list of persons who are considered by it to be suitable to be members of an adoption panel (“the central list”), including—

- (a) one or more social workers who have at least three years relevant post –qualifying experience, and
- (b) the medical adviser to the adoption agency (or at least one if more than one medical adviser is appointed).

(2) A person who is included in the central list may at any time ask to be removed from the central list by giving one month’s notice in writing.

(3) Where the adoption agency is of the opinion that a person included in the central list is unsuitable or unable to remain in the list the agency may remove that person’s name from the list by giving them one month’s notice in writing with reasons.

(4) Any two or more adoption agencies may jointly maintain a list of persons who are considered by them to be suitable to be members of an adoption panel.

**Constituting the adoption panel**

**4.—**(1) An adoption agency must constitute one or more adoption panels, as necessary, to perform the functions of an adoption panel under these Regulations and must appoint the panel members from the persons in the central list including—

- (a) a person to chair the panel, being an independent person, who has the skills and experience necessary for chairing an adoption panel, and
- (b) one or two persons who may act as chair if the person appointed to chair the panel is absent or that office is vacant (“the vice chairs”).

(2) The adoption agency must ensure that an adoption panel has sufficient members, and that individual members have between them the experience and expertise necessary to effectively discharge the functions of the panel.

(3) Any two or more adoption agencies may jointly constitute an adoption panel (“a joint adoption panel”) in which case the appointment of members must be by agreement between the agencies.

(4) An adoption agency may pay to any member of an adoption panel constituted by it such fee as it may determine, being a fee of reasonable amount.

(5) Any adoption panel member may resign at any time by giving one month’s notice in writing to the adoption panel agency which appointed them.

(6) Where an adoption agency is of the opinion that any member of the adoption panel appointed by it is unsuitable or unable to continue as a panel member it may terminate that member’s appointment at any time by giving the member notice in writing with reasons.

(7) In the case of a joint adoption panel, where an adoption agency is of the opinion that any member of an adoption panel appointed by it is unsuitable or unable to continue as a panel member, it may terminate that member’s appointment at any time by giving the member notice in writing of the reasons, if the adoption agencies who constituted the panel agree.

(8) A person (“P”) is not an independent person for the purposes of this regulation and regulation 6 if—

- (a) in the case of a registered adoption society, P is a trustee or employee of that society, or
- (b) in the case of a local authority, P—
  - (i) is an elected member of that authority, or
  - (ii) is employed by that authority for the purposes of the adoption service or for the purposes of any of that local authority’s functions relating to the protection of children, or
- (c) P is the adoptive parent of a child who was—
  - (i) placed for adoption with P by the adoption agency (“agency A”), or
  - (ii) placed for adoption with P by another adoption agency where P had been approved as suitable to be an adoptive parent by agency A,unless at least 12 months has elapsed since the adoption order was made in respect of the child.

**Adoption agencies operating only for certain purposes**

5. Where an adoption agency operates only for the purpose of putting persons into contact with other adoption agencies and for the purpose of putting such agencies into contact with each other or for either of such purposes, regulations 3, 4, 8 and to the extent that it requires consultation with persons in the central list, regulation 7, does not apply to such an agency.

**Meetings of adoption panel**

- 6.—(1) No business may be conducted by an adoption panel unless at least the following meet as a panel—
- (a) either the person appointed to chair the panel or one of the vice chairs,
  - (b) one person falling within regulation 3(1)(a),
  - (c) three, or in the case of an adoption panel constituted under regulation 4(3) four, other members and where the chair is not present and the vice chair is not an independent person, at least one other panel member must be an independent person.
- (2) An adoption panel must make a written record of its proceedings, its recommendations and the reasons for its recommendations.

**Adoption agency arrangements for adoption work**

7. An adoption agency must, in consultation with such persons in the central list as the agency considers appropriate and, to the extent specified in regulation 8(4) with the agency’s medical adviser, prepare and implement a written policy and procedural instructions governing the exercise of functions of the agency and an adoption panel in relation to adoption and such instructions must be kept under review and, where appropriate, revised by the agency.

**Requirement to appoint an agency adviser and a medical adviser**

- 8.—(1) The adoption agency must appoint a senior member of staff, or where adoption agencies agree to constitute joint adoption panels as necessary appoint a senior member of staff of one of them, (referred to in this regulation as the “agency adviser”)—
- (a) to assist with the maintenance of the central list and the constitution of adoption panels,
  - (b) to be responsible for the induction and training of persons in the central list,

- (c) to be responsible for liaison between the agency and an adoption panel, monitoring the performance of persons in the central list and members of the adoption panel and the administration of adoption panels, and
- (d) to give such advice to an adoption panel as the panel may request in relation to any case or generally.

(2) The agency adviser must be a social worker and have at least five years relevant post – qualification experience and, in the opinion of the adoption agency, relevant management experience.

(3) The adoption agency must appoint at least one registered medical practitioner to be the agency’s medical adviser.

(4) The medical adviser must be consulted in relation to the arrangements for access to, and disclosure of, health information which is required or permitted by virtue of these Regulations.

**Advice to adoption panels in adoptions with a foreign element**

9. The adoption agency must ensure that adoption panels are properly advised by an appropriately qualified person in relation to adoptions with a foreign element if such a case is being considered.”

**Transitional provision**

3. An adoption panel established under the Principal Regulations, and which is carrying out the functions of an adoption panel on 1 April 2014, may continue to carry out the functions of a panel under those Regulations in relation to any case referred to it before that date.

*Gwenda Thomas*  
Deputy Minister for Children and Social  
Services under the authority of the Minister for  
Health and Social Services, one of the Welsh  
Ministers

10 March 2014

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## EXPLANATORY NOTE

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

These Regulations amend the Adoption Agencies (Wales) Regulations 2005 (“the Principal Regulations”), which make provision about the exercise by adoption agencies (that is, local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002. They come into force on 1 April 2014.

The Principal Regulations require that, when an adoption agency is considering adoption for a child, the agency must refer the case to an adoption panel, which must then make a recommendation to the agency as to whether the child should be placed for adoption.

These Regulations amend the Principal Regulations to provide greater flexibility for adoption agencies when constituting an adoption panel, whether on their own or jointly with other adoption agencies.

Regulation 2 substitutes regulations 3 to 9 of the Principal Regulations with the following regulations:

Regulation 3 requires adoption agencies to maintain a list of persons they consider to be suitable to be members of an adoption panel (“the central list”), makes provision about inclusion in the list and provides for two or more adoption agencies to maintain a list jointly.

Regulation 4 makes provision regarding the constitution of adoption panels, including provision for two or more adoption agencies to constitute a joint adoption panel.

Regulation 5 provides that regulation 7 does not apply to an adoption agency which operates only to put persons in contact with other adoption agencies.

Regulation 6 makes provision as to when an adoption panel is quorate.

Regulation 7 imposes a duty on adoption agencies to prepare and implement a written policy and procedural instructions governing the exercise of the functions of the agency and adoption panel.

Regulation 8 makes provision about the appointment of a suitably qualified and experienced social worker as an agency adviser and appointment of a medical adviser to the panel.

Regulation 9 makes provision about advice to be given to adoption panels in adoptions with a foreign element.

Regulation 3 of these amending Regulations makes transitional provisions regarding cases referred to an adoption panel before 1 April 2014 but which have not been considered by an adoption panel by that date.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.