
STATUTORY INSTRUMENTS

1997 No. 649

CHILDREN AND YOUNG PERSONS

**The Adoption Agencies and Children
(Arrangements for Placement and Reviews)
(Miscellaneous Amendments) Regulations 1997**

Made - - - - 6th March 1997

Laid before Parliament 10th March 1997

Coming into force

other than regulation 2(4)

insofar as it inserts

regulations 5(1) to (4)

and (6), 5A and 5B in

the Adoption Agencies

Regulations 1983

1st July 1997

regulation 2(4) insofar as

it inserts regulations 5(1)

to (4) and (6), 5A and 5B

in the Adoption Agencies

Regulations 1983

1st November 1997

The Secretary of State for Health in exercise of the powers conferred by section 9(2) and (3) of the Adoption Act 1976⁽¹⁾ and sections 23(2)(a), 26(1) and (2), 59(2), (4)(a) and (5) and 104(4) of, and paragraph 12 of Schedule 2 to, the Children Act 1989⁽²⁾, and all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Adoption Agencies and Children (Arrangements for Placement and Reviews) (Miscellaneous Amendments) Regulations 1997.

(2) These Regulations shall come into force on 1st July 1997 other than regulation 2(4) insofar as it inserts regulations 5(1) to (4) and (6), 5A and 5B in the Adoption Agencies Regulations 1983⁽³⁾ which shall come into force on 1st November 1997.

(1) 1976 c. 36.

(2) 1989 c. 41.

(3) S.I.1983/1964.

Amendment of the Adoption Agencies Regulations 1983

2.—(1) The Adoption Agencies Regulations 1983(3) shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 1(3) (interpretation)—

(a) for the definition of “the Act” there shall be substituted the following definition—

““the Act” means the Adoption Act 1976;” and

(b) for the definition of “the 1975 Act” there shall be substituted the following definition—

““the Children Act” means the Children Act 1989;”.

(3) In regulation 2 (approval of adoption societies) for the words “section 4 of the 1975 Act” in each place they occur there shall be substituted the words “section 3 of the Act”.

(4) For regulation 5 (establishment of adoption panel and appointment of members) there shall be substituted the following regulations—

“Establishment of adoption panel and appointment of members

5.—(1) Subject to paragraphs (2), (3) and (6), an adoption agency shall establish at least one adoption panel and shall appoint no more than 10 persons, including at least one man and one woman, to be members of such a panel.

(2) The adoption agency shall appoint as chairman of an adoption panel a person who has such experience in adoption work as the agency considers appropriate and the other members of the panel shall include—

(a) subject to paragraph (6), two social workers in the employment of the adoption agency,

(b) subject to paragraph (6), at least one member of the adoption agency’s management committee where the agency is an approved adoption society or, where the adoption agency is a local authority, at least one member of that authority’s social services committee,

(c) the person nominated as the medical adviser to the adoption agency under regulation 6(4) (or one of them if more than one are nominated), for so long as that person is so nominated, and

(d) at least three other persons (“independent persons”), not being members or employees of the adoption agency, or elected members, where the agency is a local authority who shall where reasonably practicable include an adoptive parent and an adopted person who must be at least 18 years of age.

(3) The adoption agency shall appoint one of the members of the adoption panel as vice-chairman, who, where the chairman of the panel has died or ceased to hold office, or is unable to perform his duties by reason of illness, absence from England and Wales or any other cause, shall act as the chairman for so long as there is no chairman able to do so.

(4) An adoption panel shall make the recommendations specified in regulation 10 only when, subject to paragraph (6), at least six of its members meet as a panel and those members include the chairman or vice-chairman and a social worker in the employment of the adoption agency.

(5) An adoption panel shall keep a written record of any of the recommendations specified in regulation 10 which it makes and the reasons for them.

(6) Any two but no more than three local authorities⁽⁴⁾ may establish a joint adoption panel, and where a joint adoption panel is established—

- (a) the maximum number of members who may be appointed to that panel shall be increased to eleven,
- (b) the chairman shall be appointed by agreement between the local authorities,
- (c) one social worker in the employment of each local authority and one member of each local authority's social services committee shall be appointed to the panel,
- (d) three independent persons shall be appointed to the panel by agreement between the local authorities,
- (e) the vice-chairman shall be appointed from the members of the panel by agreement between the local authorities, and
- (f) the quorum set out in paragraph (4) shall be increased to seven.

Tenure of office of members

5A.—(1) Subject to the provisions of this regulation and regulation 5B a member of the adoption panel shall hold office for a term not exceeding three years, and may not hold office as a member of that panel for more than two consecutive terms without an intervening period of at least three years.

(2) An adoption agency shall so arrange the tenure of office of the members of the panel so that so far as possible the term of office of at least one third of its members shall expire each year.

(3) The medical adviser member of the adoption panel shall hold office only for so long as he is the medical adviser nominated under regulation 6(4).

(4) A member may resign his office at any time after appointment by giving notice in writing to that effect to the adoption agency, or if he is a member of a joint adoption panel, by giving notice to one of the local authorities whose panel it is.

(5) Subject to paragraph (6), if an adoption agency is of the opinion that a member is unfit or unable to hold office, the agency may terminate his office by giving him notice in writing with reasons.

(6) If the member whose appointment is to be terminated under paragraph (5) is a member of a joint adoption panel, his appointment may only be terminated with the agreement of all the local authorities whose panel it is.

(7) Where a member is appointed to replace a person whose appointment has been terminated for any reason before the expiry of the term for which he has been appointed, that member shall hold office as a member of that panel for the unexpired part of the term of the person whom he replaces, and may not hold office for more than one consecutive term after the expiry of that term without an intervening period of three years.

Establishment of new panels on 1st November 1997

5B.—(1) All members of an adoption panel established before 1st November 1997, shall cease to hold office on that date.

(2) With effect from the 1st November 1997, an adoption agency shall establish a new adoption panel in accordance with regulations 5 and 5A.”

(4) A local authority is an adoption agency; *see* section 1(4) of the Adoption Act 1976.

(5) In regulation 7(3) (adoption agency’s duties—father without parental responsibility) for the words “Where the identity of the father of an illegitimate child” there shall be substituted the words “Where the father of a child does not have parental responsibility for the child and his identity”.

(6) In regulation 8(2) (adoption agency’s duties—prospective adopters)—

(a) in sub-paragraph (f) the word “and” shall be omitted; and

(b) for sub-paragraph (g) there shall be substituted the following sub-paragraphs—

“(g) prepare a written report which shall include the agency’s assessment of the prospective adopter’s suitability to be an adoptive parent and any other observations of the agency on the matters referred to in this regulation,

(h) notify the prospective adopter that his application is to be referred to the adoption panel and at the same time send a copy of the agency’s assessment referred to in paragraph (g) to the prospective adopter inviting him to send any observations in writing on that assessment to the agency within 28 days, and

(i) at the end of the period of 28 days referred to in sub-paragraph (h), (or earlier if any observations made by the prospective adopter on the assessment are received before the 28 days has expired), pass the written report referred to in sub-paragraph (g) and any written observations made by the prospective adopter together with all information obtained by the agency by virtue of this regulation, to the adoption panel or to another adoption agency.”.

(7) In regulation 9(2)(b) (agency’s duty in respect of placement—referral to panel) for the words “which has parental rights and duties in respect of the child by virtue of section 14 or 23 of the 1975 Act (freeing for adoption and transfer of parental rights and duties)” there shall be substituted the words “which has parental responsibility for the child by virtue of section 18 or 21 of the Act (freeing for adoption and variation of order to substitute one adoption agency for another).”.

(8) In regulation 10 (adoption panel functions)—

(a) in sub-paragraph (a) of paragraph (1) for the words “section 14 of the 1975 Act” there shall be substituted the words “section 18 of the Act”; and

(b) in paragraph (3) for the words “sections 3 and 13 of the 1975 Act” there shall be substituted the words “sections 6 and 7 of the Act”.

(9) In regulation 11 (adoption agency decisions and notifications)—

(a) in paragraph (1) the words “(b)” shall be omitted; and

(b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) No member of an adoption panel shall take part in any decision made by the adoption agency under paragraph (1).”; and

(c) in paragraph (2)—

(i) in sub-paragraph (a) for the words “the father of an illegitimate child” there shall be substituted the words “his father if he does not have parental responsibility for the child but only”;

(ii) in sub-paragraph (b) for the words “section 14 of the 1975 Act” shall be substituted the words “section 18 of the Act”; and

(iii) and sub-paragraph (c) shall be omitted.

(10) After regulation 11 there shall be inserted the following regulation—

“Adoption agency decisions and notifications—prospective adopters

11A.—(1) In relation to a matter referred to in regulation 10(1)(b) (panel recommendations — prospective adopters) the adoption agency shall take into account the recommendation of the adoption panel made by virtue of that regulation on that matter before making its decision.

(2) No member of an adoption panel shall take part in any decision made by the agency under paragraph (1).

(3) If the agency decide to approve the prospective adopter as suitable to be an adoptive parent, the agency shall notify the prospective adopter in writing of its decision.

(4) If the agency consider that the prospective adopter is not suitable to be an adoptive parent, the agency shall—

- (a) notify the prospective adopter in writing that it proposes not to approve him as suitable to be an adoptive parent;
- (b) send with that notification their reasons together with a copy of the recommendation of the adoption panel, if different; and
- (c) invite the prospective adopter to submit any representations he wishes to make within 28 days.

(5) If within the period of 28 days referred to in paragraph (4), the prospective adopter has not made any representations, the agency may proceed to make its decision and shall notify the prospective adopter in writing of its decision together with the reasons for that decision.

(6) If within the period of 28 days referred to in paragraph (4) the agency receive further representations from the prospective adopter, it may refer the case together with all the relevant information to its adoption panel for further consideration.

(7) The adoption panel shall reconsider any case referred to it under paragraph (6) and make a fresh recommendation to the agency as to whether the prospective adopter is suitable to be an adoptive parent.

(8) The agency shall make a decision on the case but if the case has been referred to the adoption panel under paragraph (6) it shall make the decision only after taking into account any recommendation of the adoption panel made by virtue of paragraph (7).

(9) As soon as possible after making the decision under paragraph (8), the agency shall notify the prospective adopter in writing of its decision, stating its reasons for that decision if they do not consider the prospective adopter to be suitable to be an adoptive parent, and of the adoption panel’s recommendation, if this is different from the agency’s decision.”

(11) In regulation 12(2) (placement for adoption)—

(a) after sub-paragraph (a) there shall be inserted the following sub-paragraphs—

“(aa) notify in writing the parent or guardian of the child, if their whereabouts are known to the agency, of the proposed placement for adoption, unless the parent or guardian has made a declaration under section 18(6) or 19(4) of the Act (declaration as to no further involvement with child),

(aaa) where the father of the child does not have parental responsibility for him and his identity is known to the agency, notify the father of the proposed placement provided the agency considers this to be in the best interests of the child,”;

(b) sub-paragraph (f) shall be omitted;

(c) for sub-paragraph (j) there shall be substituted the following sub-paragraph—

“(j) make appointments for the child to be examined by a registered medical practitioner and for a written assessment on the state of his health and his need for health care to be made—

- (i) at least once in every period of six months before the child’s second birthday, and
 - (ii) at least once in every period of twelve months after the child’s second birthday, unless the child is of sufficient understanding to make an informed decision and refuses to submit to the examination and”;
- (d) for sub-paragraph (k) there shall be substituted the following sub-paragraph—
 - “(k) review the placement for adoption of the child within four weeks of placement, not more than three months after that review unless an application for an adoption order has been made, and at least every six months thereafter until an application for an adoption order is made.”; and
- (e) after paragraph (2) there shall be added the following paragraphs—
 - “(3) The agency who carry out the review referred to in paragraph (2)(k) shall—
 - (a) set out in writing the arrangements governing the manner in which the case of each child shall be reviewed and shall draw the written arrangements to the attention of the child, where reasonably practicable having regard to his age and understanding, to the prospective adopters, and to any other person the agency considers relevant,
 - (b) have regard so far as reasonably practicable to the considerations specified in Part VIII of the Schedule, and
 - (c) ensure that—
 - (i) the information obtained in respect of a child’s case,
 - (ii) details of the proceedings at any meeting arranged by the agency to consider any aspect of the review of the case, and
 - (iii) details of any decision made in the course of or as a result of the review, are recorded in writing.
 - (4) The agency who carry out the review shall, so far as reasonably practicable, notify details of the result of the review and of any decision taken by them in consequence of the review to—
 - (a) the child where he is of sufficient age and understanding;
 - (b) his parents, except where a freeing order has been made under section 18 of the Act and that order has not been revoked,
 - (c) his father, if he does not have parental responsibility for him and his identity is known, provided that the agency considers this to be in the child’s interests;
 - (d) the prospective adopters; and
 - (e) any other person whom they consider ought to be notified.”.
- (12) In regulation 13(1) (review of case where no placement made within six months of freeing for adoption)—
 - (a) for the words “section 14 of the 1975 Act” shall be substituted the words “section 18 of the Act”; and
 - (b) for the words “in which parental rights and duties are then vested by virtue of section 14 or 23 of the 1975 Act” there shall be substituted the words “which has parental responsibility for the child by virtue of section 18 or 21 of the Act (freeing for adoption and variation of order to substitute one agency for another)”.
- (13) After regulation 13 (review of cases where no placement made within six months of freeing for adoption), there shall be inserted the following regulation—

“Information on adoption

13A. As soon as practicable after the making of an adoption order in respect of a child, the adoption agency shall—

- (a) provide the adopters with such information about the child as they consider appropriate; and
- (b) at the same time advise the adopters that this information should be made available to the child at a time when they consider it is appropriate but no later than the child’s eighteenth birthday.”

(14) In regulation 14 (confidentiality and preservation of case records) there shall be added at the end the following additional paragraph—

“(4) The adoption agency shall ensure that the place of special security referred to in paragraphs (2) and (3) preserve the records etc., so far as is possible, and in particular minimise the risk of damage from fire or water.”

(15) In regulation 15(1) (access to case records and disclosure of information)—

- (a) in sub-paragraph (a) for the words “section 76 of the Child Care Act 1980” there shall be substituted the words “section 81 of the Children Act”;
- (b) after sub-paragraph (c) there shall be inserted the following sub-paragraph—
 - “(cc) to any person appointed by the adoption agency for the purposes of the consideration by the agency of any representations (including complaints),”;
- (c) in sub-paragraph (e) for the words “section 20 of the 1975 Act” there shall be substituted the words “section 65 of the Act”; and
- (d) in sub-paragraph (f) the words “, the Adoption Act 1968” to the end of that sub-paragraph shall be omitted.

(16) For regulation 17 (progress reports under section 19 of the Act) there shall be substituted the following regulation—

“**17.** Where parental responsibility for a child who is in Great Britain has been transferred from one adoption agency (“the existing agency”) to another (“the substitute agency”) by virtue of an order under section 21 of the Act (variation of section 18 order), the substitute agency shall provide such information to the existing agency as that agency considers necessary for it to comply with its duty under section 19(2) and (3) of the Act.”

(17) In Part I of the Schedule (particulars relating to the child)—

- (a) in paragraph 7 for the words “or local authority resolutions relating to the parental rights and duties in respect of the child” there shall be substituted the words “, or agreement under section 4 of the Children Act, relating to parental responsibility for the child”;
- (b) for paragraph 12 of Part I there shall be substituted the following paragraphs—

“**12.** Any special needs in relation to the child’s health (whether physical or mental) and his emotional and behavioural development, and how those are to be met.

12A. Any educational needs which the child has and how these needs are to be met, the result of any assessment carried out in respect of any special educational needs under the Education Act 1996(5), and how any needs identified in the statement of special educational needs made under section 324 of that Act are to be met.”; and

- (c) in paragraph 14 for the words “section 14 of the 1975 Act,” there shall be substituted the words “section 18 of the Act (freeing child for adoption),”.

(18) In Part II of the Schedule (matters to be covered in report on the child’s health) after paragraph 3(d) there shall be inserted the following sub-paragraph—

“(dd) how his health and medical history has affected his physical, intellectual, emotional, social or behavioural development.”.

(19) In Part III of the Schedule (particulars relating to each parent), in paragraph 10 for the words “section 14 of the 1975 Act,” there shall be substituted the words “section 18 of the Act (freeing child for adoption),”.

(20) After Part VII of the Schedule (matters to be covered in report or health of the prospective adopter) there shall be added the following Part—

“PART VIII

CONSIDERATIONS TO BE INCLUDED IN REVIEW

1. The child’s needs (including his educational needs), progress and development, and whether any changes are needed to help to meet those needs or to assist his progress or development.

2. Any arrangements for contact, and whether there is need for any change in such arrangements.

3. Existing arrangements for the child’s medical and dental care and treatment, and health and dental surveillance.

4. The possible need for an appropriate course of action to assist any necessary change of such care, treatment or surveillance.

5. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing.”.

Amendment of Arrangements for Placement of Children (General) Regulations 1991

3. In regulation 2 (application of Regulations) of the Arrangements for Placement of Children (General) Regulations 1991(6)—

(a) In paragraph (1) for the words “Subject to paragraph (2),” there shall be substituted the words “Subject to paragraphs (2) and (3),”; and

(b) after paragraph (2) there shall be added the following paragraph—

“(3) These Regulations shall not apply to any placement of a child for adoption under the Adoption Act 1976(7).”.

Amendment of the Review of Children’s Cases Regulations 1991

4. After regulation 13 (exception to application of Regulations) of the Review of Children’s Cases Regulations 1991(8) there shall be added the following regulation—

“13A. These Regulations shall not apply in the case of a child who is placed for adoption under the Adoption Act 1976(7).”.

(6) S.I. 1991/890 as amended by S.I. 1991/2033, S.I. 1993/3069 and S.I. 1995/2015.

(7) 1976 c. 36.

(8) S.I. 1991/895 as amended by S.I. 1991/2033 and S.I. 1993/3069.

(7) 1976 c. 36.

6th March 1997

Stephen Dorrell
Secretary of State for Health

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Adoption Agencies Regulations 1983. They come into force on 1st July 1997, except for regulation 2(4) insofar as it inserts regulations 5(1) to (4) and (6), 5A and 5B in the Adoption Agencies Regulations which come into force on 1st November 1997 (regulation 1(2)).

They make provision for the membership of adoption panels and for the tenure of office of members. In particular, they provide for the appointment of a vice-chairman (as well as the chairman) of the panel, for the panel to include at least three independent persons including where practicable, an adoptive parent or adopted person, for a written record of the panel's reasons for its recommendations, and for the establishment of a joint panel by no more than 3 local authorities where appropriate. They provide for a maximum 3 year term of office for members and for their eligibility for one consecutive re-appointment. They also provide for the cessation of membership of panels established before 1st November 1997 and for the establishment of new panels from that date (regulation 2(4)).

They require the agency to send to prospective adopters for their observations a copy of any assessment of their suitability to be adoptive parents prepared for the panel for their observations (regulation 2(6)), and establish a new procedure whereby prospective adopters whom the agency considers not suitable to be adoptive parents must be notified of the agency's reasons and given an opportunity to make representations before the agency reaches its decision (regulation 2(10)).

They also require the agency to notify a child's parents of their intention to place the child for adoption, to make appointments for the regular examination and assessment by a registered medical practitioner of the child's health, to carry out regular reviews of the child's placement until such time as an application for an adoption order is made, and make provision as to the conduct of such reviews, the matters to be taken into account and the persons to whom details of the review and any consequential decisions should be sent (regulation 2(11) and (20)).

They make provision for information about the child to be given by the agency to the adopters once the adoption order has been made and for the adopters to be advised that the information should be made available to the child no later than his 18th birthday (regulation 2(13)); for preserving adoption records, etc., and minimising the risk of damage from fire or water (regulation 2(14)); for the disclosure of confidential records to persons appointed by the adoption agency to consider complaints (regulation 2(15)); and for the exchange of information between agencies where responsibility for the child is being transferred (regulation 2(16)).

They also amend the Schedule to provide for any special health or educational needs of the child to be identified and for consideration to be given to how those needs are to be met (regulation 2(17) and (18)) and make consequential amendments to the Arrangements for Placement (General) Regulations 1991 (regulation 3).

[The other amendments are of a minor or consequential nature (regulation 2(2), (3), (5), (7) to (9), (12) and (19)).