

## SCHEDULE

Article 2

### TRANSITIONAL PROVISION

#### **Completion of the transfer of registration form**

1. The existing provider shall, by not later than 21st March 2003 or such later date before the 30th April 2003 as may be agreed by the existing provider with the Commission—

- (a) complete the transfer of registration form made available for that purpose by the Secretary of State; and
- (b) send a copy of the form so completed to—
  - (i) the Commission; and
  - (ii) the Secretary of State.

#### **Registration in respect of existing agencies**

2.—(1) This paragraph shall have effect subject to paragraphs 4 (decision as to withdrawal of approval under section 4 of the 1976 Act) and 5 (pending proposal as to withdrawal of approval under section 4 of the 1976 Act).

(2) Subject to sub-paragraph (3), where an existing provider has complied with paragraph 1, the existing provider shall, with effect from 30th April 2003, be treated, for the purposes of Part II of the Act, as having applied for and been granted registration in respect of the existing agency as a voluntary adoption agency, subject to—

- (a) in a case where the existing provider has indicated on the transfer of registration form that the agency makes arrangements only in respect of—
  - (i) adoptions other than intercountry adoptions;
  - (ii) adoptions other than intercountry adoptions and, in relation to intercountry adoption, the preparation of relevant reports on behalf of a local authority; or
  - (iii) intercountry adoptions,a condition that the agency may make only such arrangements; and
- (b) a condition that the activities of the agency may only be carried on from the principal office and branch (if any) of the agency which are specified on the agency's certificate of registration,

and those conditions shall have effect from 30th April 2003, for the purposes of section 19(1) of the Act, as if they had been agreed in writing between the existing provider and the Commission.

(3) An existing provider shall not be treated as having applied for and been granted registration where paragraph 3(1) applies.

(4) The provisions of sub-paragraph (2) are without prejudice to the powers of the Commission to vary, remove, or impose any conditions in accordance with Part II of the Act.

(5) In this paragraph—

- (a) “relevant reports” means a report about—
  - (i) the suitability of a person to adopt a child;
  - (ii) the placement of a child for adoption;
  - (iii) the adoption of a child;
- (b) “intercountry adoption” means—

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- (i) the adoption of a child habitually resident in the British Islands by prospective adopters habitually resident outside the British Islands; or
- (ii) the adoption of a child habitually resident outside the British Islands.

### **Continuation of approval under the 1976 Act**

3.—(1) This sub-paragraph applies where an existing provider has complied with paragraph 1 and has indicated on the transfer of registration form that with effect from 30th April 2003, the agency will provide section 51 counselling only.

(2) Subject to sub-paragraph (3), where sub-paragraph (1) applies, with effect from 30th April 2003—

- (a) the existing agency shall continue to be approved as an adoption society under Part I of the 1976 Act subject to a condition that the agency may provide section 51 counselling only; and
- (b) sections 4, 5(3) to (5) and 8 of the 1976 Act and regulations 3,14,15 and 16 of the Adoption Agencies Regulations 1983(1) shall continue in force in respect of that agency, notwithstanding the provision made by article 3(5)(d) of this Order and the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003(2).

(3) The approval of an existing agency under this paragraph shall continue until the earlier of any of the following events—

- (a) the agency ceases to provide section 51 counselling;
- (b) the approval is withdrawn in accordance with section 4 of the 1976 Act; or
- (c) the existing provider is treated as having applied for and been granted registration under Part II of the Act in respect of an adoption support agency(3).

(4) In this paragraph, “section 51 counselling” means counselling services in respect of the disclosure of information by the Registrar General under section 51 of the 1976 Act.

### **Decision as to withdrawal of approval under section 4 of the 1976 Act**

4. An existing provider shall not be treated for the purposes of Part II of the Act as having applied for and been granted registration in respect of the existing agency as a voluntary adoption agency if—

- (a) the Secretary of State has before 30th April 2003 given notice to the existing agency of a decision under section 4 of the 1976 Act to withdraw the approval given to the agency; and
- (b) the date specified in that notice as the date from which the withdrawal of approval is to have effect, is a date on or after 30th April 2003.

### **Pending proposal as to withdrawal of approval under section 4 of the 1976 Act**

5.—(1) This paragraph applies where the Secretary of State has on or after 3rd March 2003, given notice to an existing agency of a proposal under section 5(3) of the 1976 Act to withdraw the approval he has given to the agency.

(2) Where this paragraph applies, any notice referred to in sub-paragraph (1) shall, for the purposes of Part II of the Act, and notwithstanding that it does not comply with the requirements for such a notice under the Act, be treated with effect from 30th April 2003 as if it were a notice of a

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(1) [S.I.1983/1964](#), amended as respects England, by [S.I. 1997/649](#), [1997/2308](#), [1999/2768](#), [2001/2237](#), [2001/2992](#), [2002/3220](#) and [2003/367](#).

(2) [S.I. 2003/367](#).

(3) See section 8 of the Adoption and Children Act 2002 (c. 38).

proposal given under section 17(4) of the Act to cancel his registration (otherwise than in accordance with an application under section 15(1)(b)), in respect of the existing agency.

(3) In determining any matter to which the notice relates the Commission must consider any written representations that the existing provider made to the Secretary of State in accordance with section 5(3) of the 1976 Act.

### **Transfer of applications — applications for approval**

6.—(1) This sub-paragraph applies to an application for approval under section 3 of the 1976 Act which—

- (a) has been made before 25th February 2003; and
- (b) in respect of which the Secretary of State has not as at 25th February 2003 served either—
  - (i) notice of approval in accordance with section 3(1) of the 1976 Act; or
  - (ii) notice of proposal to refuse the application under section 5(1) of that Act.

(2) This sub-paragraph applies to an application for approval under section 3 of the 1976 Act which is made to the Secretary of State on or after the 25th February 2003.

(3) The Secretary of State may give the Commission notice of transfer of an application to which sub-paragraph (1) or (2) applies where it appears to the Secretary of State that he is unlikely to be able to determine the application before 30th April 2003.

(4) An application to which sub-paragraph (1) or (2) applies shall be treated with effect from the application transfer date as an application for registration in respect of the agency under Part II of the Act.

(5) For the purposes of this paragraph—

- (a) if, notice of transfer is given to the Commission in respect of the application before 30th April 2003, the application transfer date is the date on which the notice of transfer was given;
- (b) if as at 30th April 2003, the application has not been determined by the Secretary of State, and notice of transfer has not been given to the Commission, the application transfer date is the 30th April 2003.

### **Transitory provisions**

7.—(1) From the date on which the transfer of registration form referred to in paragraph 1, in relation to an existing agency is sent by the existing provider to the Commission, until such time as the existing provider is treated, in accordance with paragraph 2, as having applied for and been granted registration for the purposes of Part II of the Act, the existing provider shall for the purpose of enabling the Commission to consider or obtain information about any matter in relation to the existing agency be treated as having applied for registration under Part II of the Act in respect of that agency.

(2) The Commission may, until such time as the existing provider is treated, in accordance with paragraph 2 as having been granted registration for the purposes of Part II of the Act in respect of the existing agency, request the existing provider to supply to it any information or documents that, if the existing provider had made an application for registration under Part II of the Act in respect of the agency would be relevant for the purpose of determining the application.

(3) Where the Commission requests the existing provider to supply to it any information or documents in accordance with sub-paragraph (2), the existing provider shall supply such information or documents within fourteen days of the request being made.

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