
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the exercise by adoption agencies (local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002 (“the Act”).

Part 2 makes provision for the arrangements for adoption work which adoption agencies (“agencies”) must put in place. Regulation 3 requires agencies to set up adoption panels and regulations 4 and 5 make provision in relation to the tenure of panel members and the proceedings of adoption panels. Agencies are required to appoint an adoption adviser to the adoption panel and medical adviser (regulations 8 and 9) and regulation 10 provides for the establishment of new panels on 30th December 2005 (the date on which these Regulations come into force).

Part 3 applies where an agency is considering adoption for a child. Regulation 12 requires the agency to open a case record in respect of the child. Regulations 13 and 14 require the agency to provide counselling and information for, and ascertain the wishes and feelings of, the child, his parent or guardian and others. Regulation 14(3) and (4) make provision for the father of a child who does not have parental responsibility for the child and whose identity is known. If the agency considers it is appropriate it must counsel etc. the father. Regulations 15 and 16 impose duties on an agency to obtain information about the child and his family and others which is specified in Schedule 1. Regulation 17 requires the agency to prepare a written report about the child (“the child’s permanence report”). The child’s permanence report and certain other information must be sent to the adoption panel. Regulation 18 provides that the adoption panel have to make a recommendation to the agency as to whether the child should be placed for adoption. The agency must take into account that recommendation in coming to a decision about whether the child should be placed for adoption (regulation 19). Regulation 20 provides that the agency must request CAFCASS to appoint an officer of the Service or the National Assembly for Wales to appoint a Welsh family proceedings officer to witness consent to placement under section 19 of the Act and, as the case may be, to the making of a future adoption order under section 20 of the Act. The information to be provided to CAFCASS is specified in Schedule 2.

Part 4 makes provision for the assessment of prospective adopters. Regulation 21 requires the agency to provide counselling and information for a prospective adopter. The agency must consider an application by a prospective adopter for an assessment of his suitability to adopt a child (regulation 22). Regulation 23 requires the agency to carry out police checks and provides that an agency may not consider a person suitable to adopt a child if he or any member of his household aged 18 or over has been convicted of, or cautioned for, certain specified offences. The agency must arrange for the prospective adopter to receive preparation for adoption (regulation 24). The agency must obtain certain information and reports in respect of the prospective adopter and prepare a written report (regulation 25 and Schedule 4). The prospective adopter’s case must be submitted to the adoption panel who must make a recommendation to the agency as to whether the prospective adopter is suitable to adopt a child (regulation 26). The agency must then make a decision about whether the prospective adopter is suitable to adopt a child (regulation 27). Regulation 29 makes provision for the review and termination of a prospective adopter’s approval.

Part 5 makes provision in relation to the duties of the agency in respect of the placement of a child with a prospective adopter. The agency must provide the prospective adopter with the child’s permanence report and meet with him to discuss the proposed placement (regulation 31). The proposed placement must be referred to the adoption panel who must consider the proposed

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placement and make a recommendation to the agency as to whether the child should be placed for adoption with the particular prospective adopter and the agency must take into account that recommendation when coming to its decision (regulations 32 and 33).

Part 6 makes provision in relation to placements and reviews. Regulation 36 provides that the agency must provide the prospective adopter with a placement plan (which must cover the matters specified in Schedule 5) and before the child is placed for adoption send certain information to the persons specified in regulation 35(6). Regulation 36 imposes a duty on the agency to carry out reviews. Regulation 37 requires an agency to appoint an independent reviewing officer. Regulation 38 makes provision in relation to what is to happen when a parent withdraws consent given under section 19 or 20 of the Act.

Part 7 makes general provision in relation to case records.

Part 8 makes miscellaneous provision including modifications to provisions in the Children Act 1989.

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department for Education and Skills' website <http://www.dfes.gov.uk/ria/>.