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STATUTORY INSTRUMENTS

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**2009 No. 395**

**The Independent Review of Determinations  
(Adoption and Fostering) Regulations 2009**

**PART 1**

**GENERAL**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Independent Review of Determinations (Adoption and Fostering) Regulations 2009 and come into force on 1st April 2009.

(2) These Regulations apply in relation to England only.

**Interpretation**

2. In these Regulations—

“the 1989 Act” means the Children Act 1989;

“the 2002 Act” means the Adoption and Children Act 2002;

“the AAR” means the Adoption Agencies Regulations 2005(1);

“adoption panel” means a panel constituted in accordance with regulation 3 of the AAR;

“adoption suitability determination” means a qualifying determination described in regulation 3;

“applicant” means—

(a) in the case of an adoption suitability determination, a prospective adopter;

(b) in the case of a disclosure determination, a relevant person within the meaning of regulation 15(7) of the Disclosure Regulations;

(c) in the case of a fostering determination, a person to whom notice has been given for the purposes of regulation 28(6)(a) or 29(7)(a) of the FSR;

“the central list” shall be construed in accordance with regulation 5;

“disclosure determination” means a qualifying determination described in regulation 15(1) of the Disclosure Regulations(2);

“the Disclosure Regulations” means the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005(3);

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(1) [S.I. 2005/389](#), as amended by [S.I. 2005/3482](#) and [S.I. 2007/603](#).

(2) Regulation 15(1) of the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 ([S.I. 2005/888](#)) specifies the following determinations by the appropriate adoption agency in relation to an application under section 61 of the 2002 Act: determinations (a) not to proceed with an application from any person for the disclosure of protected information; (b) to disclose information against the express views of the person the information is about; and (c) not to disclose information about a person to the applicant where that person has expressed the view that the information should be disclosed.

(3) [S.I. 2005/888](#), as amended by [S.I. 2005/3482](#) and [S.I. 2007/603](#).

“fostering determination” means a qualifying determination of a description prescribed in regulation 4;

“fostering panel” means a panel constituted in accordance with regulation 24 of the FSR;

“fostering service provider” has the meaning given in regulation 2(1) of the FSR;

“the FSR” means the Fostering Services Regulations 2002<sup>(4)</sup>;

“organisation” means an adoption agency or a fostering service provider as the case may be;

“panel” means a panel constituted in accordance with regulation 6, 7 or 8 (as the case may be);

“prospective adopter’s report” means a report prepared in accordance with regulation 25 of the AAR;

“qualifying determination” means a determination described in regulation 3 or 4 of these Regulations or regulation 15(1) of the Disclosure Regulations; and

“social worker” means a person who is registered as a social worker in a register maintained by the General Social Care Council or the Care Council for Wales under section 56 of the Care Standards Act 2000<sup>(5)</sup> or in a corresponding register maintained under the law of Scotland or Northern Ireland.

### **Qualifying determination for the purposes of section 12(2) of the 2002 Act**

3. A determination made by an adoption agency<sup>(6)</sup> in accordance with regulation 27(4) of the AAR that the adoption agency proposes not to approve a prospective adopter as suitable to adopt a child is a qualifying determination for the purposes of section 12(2) of the 2002 Act.

### **Qualifying determination – prescribed description for the purposes of paragraph 12A(2)(b) of Schedule 2 to the 1989 Act**

4. For the purposes of paragraph 12A(2)(b) of Schedule 2 to the 1989 Act the following descriptions of determination are prescribed—

- (a) a determination (other than a determination made pursuant to regulation 27(6) of the FSR) that the fostering service provider proposes not to approve a person as suitable to act as a foster parent, in accordance with regulation 28(6) of the FSR, and
- (b) a determination (other than a determination made pursuant to regulation 27(6) of the FSR) that the fostering service provider proposes to terminate, or to revise the terms of, the approval of a person as suitable to act as a foster parent, in accordance with regulation 29(7) of the FSR,

where notice of the determination is given on a date on or after 1st April 2009.

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(4) S.I. 2002/57 as amended by S.I. 2002/865, S.I. 2002/2469, S.I. 2006/1738, S.I. 2007/603, S.I. 2008/640 and S.I. 2009/394.

(5) 2000 c. 14. Section 56 was amended by regulations 230 and 232 of the European Qualifications (Health and Social Care Professions) Regulations 2007, S.I. 2007/3101.

(6) Section 2 of the 2002 Act provides that a local authority or registered adoption society may be referred to as an adoption agency.