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WELSH STATUTORY INSTRUMENTS

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**2005 No. 1313**

**The Adoption Agencies (Wales) Regulations 2005**

**PART 4**

**DUTIES OF ADOPTION AGENCY IN  
RESPECT OF A PROSPECTIVE ADOPTER**

**Requirement to carry out police checks**

**23.—**(1) The adoption agency must obtain —

- (a) in respect of the prospective adopter, an enhanced criminal record certificate within the meaning of section 115 of the Police Act 1997<sup>(1)</sup> including the matters specified in subsection (6A) of that section; and
- (b) in respect of any other member of the prospective adopter's household aged 18 or over, an enhanced criminal record certificate under section 115 of that Act including the matters specified in subsection (6A) of that section.

(2) The adoption agency must not consider a person suitable to adopt a child or, as the case may be, must consider a person no longer suitable to adopt a child, if the person or any member of the person's household aged 18 or over —

- (a) has been convicted of a specified offence committed at the age of 18 or over; or
- (b) has been cautioned by a constable in respect of any such offence which, at the time the caution was given, the person admitted.

(3) In paragraph (2) "specified offence" means —

- (a) an offence against a child;
- (b) an offence specified in Part 1 of Schedule 3;
- (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979<sup>(2)</sup> in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)<sup>(3)</sup> where the prohibited goods included indecent photographs of children under the age of 16;
- (d) any other offence involving bodily injury to a child, other than an offence of common assault or battery,

and the expression "offence against a child" has the meaning given to it by section 26(1) of the Criminal Justice and Court Services Act 2000<sup>(4)</sup> except that it does not include an offence contrary to

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(1) 1997 c. 50. Section 115 was amended by section 328 of the Criminal Justice Act 2003, section 19 of the Health and Social Care Act 2001, sections 90, 103, 104 and 116 of the Care Standards Act 2000, section 152 of and Schedules 21 and 22 to the Education Act 2002, section 8 of the Protection of Children Act 1999, section 135 of the Act, section 2 and Schedule 2 to the National Health Service Reform and Health Care Professions Act 2002 and section 115 of the Licensing Act 2003.

(2) 1979 c. 2.

(3) 1876 c. 36.

(4) 2000 c. 43. Schedule 4 to the 2000 Act was amended by the Sexual Offences Act 2003 c. 42.

section 9 of the Sexual Offences Act 2003 (sexual activity with a child) in a case where the offender was under the age of 20 and the child was aged 13 or over at the time the offence was committed.

(4) An adoption agency may not consider a person to be suitable to adopt a child or, as the case may be, must consider a person no longer suitable to adopt a child, if that person or any member of that person's household aged 18 or over—

- (a) has been convicted of an offence specified in paragraph 1 of Part 2 of Schedule 3 committed at the age of 18 or over or has been cautioned by a constable in respect of any such offence which, at the time the caution was given, was admitted; or
- (b) falls within paragraph 2 or 3 of Part 2 of Schedule 3,

notwithstanding that the statutory offences specified in Part 2 of Schedule 3 have been repealed.