
WELSH STATUTORY INSTRUMENTS

2005 No. 3113 (W.233)

**CHILDREN AND YOUNG PERSONS, WALES
SOCIAL CARE, WALES**

**The Local Authority (Non-agency
Adoptions) (Wales) Regulations 2005**

Made - - - - 8 November 2005
Coming into force - - 30 December 2005

The National Assembly for Wales, in exercise of the powers conferred by sections 9(1), 44(9), 140(7) and (8) of the Adoption and Children Act 2002(1), hereby makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Local Authority (Non-agency Adoptions) (Wales) Regulations 2005 and they come into force on 30 December 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations “the Act” (“*y Ddeddf*”) means the Adoption and Children Act 2002.

Prescribed local authorities

3.—(1) For the purposes of section 44(9)(a) of the Act, the following local authorities are prescribed in the following cases.

(2) In the case of a proposed adoption by one person who no longer has a home in Wales, the prescribed local authority is the local authority for the area in which that person’s last home in Wales was situated.

(3) In the case where the proposed adopters no longer have a home in Wales and shared together the last home they had in Wales, the prescribed local authority is the local authority for the area in which that home was situated.

(4) In the case where the proposed adopters no longer have a home in Wales and did not share together the last home each had in Wales, the prescribed local authority is the local authority which

the proposed adopters nominate, being the local authority for the area in which the last home in Wales of one of the adopters was situated.

(5) Where there are two proposed adopters and neither of them has a home in Wales but where one of them has had a home or homes in Wales, the prescribed local authority is the local authority for the area in which the last of that person's homes in Wales was situated.

Requirement to take steps to obtain police checks

4. For the purposes of an investigation arranged under section 44(5) of the Act, the local authority must take steps to obtain in respect of—

- (a) the proposed adopters, and
- (b) any other members of their household aged 18 or over,

an enhanced criminal record certificate within the meaning of section 115 of the Police Act 1997⁽²⁾ including the matters specified in subsection (6A) of that section.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽³⁾.

8 November 2005

D. Elis-Thomas
The Presiding Officer of the National Assembly

(2) 1997 c. 50 .
(3) 1998 c. 38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for when people wish to adopt a child who is not placed for adoption with them by an adoption agency.

Regulation 3 prescribes the appropriate local authority for the purposes of section 44 of the Adoption and Children Act 2002 ('the 2002 Act') where the proposed adopters are living overseas when they wish to apply for an adoption order. This will cover for example the case of proposed adopters who are members of the armed forces or the diplomatic services posted overseas. Regulation 3 provides that in such a case the authority to which they have to give notice of their intention to adopt is the local authority in whose area the proposed adopters had last lived together when living in Wales. If the proposed adopters had not lived together in Wales, then they can choose which will be the appropriate local authority from the two local authorities for the areas in which the proposed adopters had their last homes in Wales.

Regulation 4 requires the local authority for the purpose of the investigation which it is required to arrange under section 44(5) of the 2002 Act to take steps to obtain enhanced criminal record certificates in respect of both the proposed adopters and other members of their household who are aged 18 or over.