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STATUTORY INSTRUMENTS

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**2005 No. 3482**

**The Adoption and Children (Miscellaneous Amendments) Regulations 2005**

**Amendment of the Adoption Agencies Regulations 2005**

5. The Adoption Agencies Regulations 2005(1) are amended as follows—
- (a) in regulation 3(1) (adoption panel) after “paragraph (5)” insert “and regulation 3A”;
  - (b) for regulation 3(7)(b) substitute—
    - “(b) in the case of a local authority, he—
      - (i) is or has been within the last year employed by that authority in their children and family social services;
      - (ii) is related to a person falling within head (i); or
      - (iii) is or has been within the last year a member of that authority.”;
  - (c) after regulation 3 insert—

“**3A.** Where an adoption agency operates only for the purpose of putting persons into contact with other adoption agencies and for the purpose of putting such agencies into contact with each other or for either of such purposes, regulations 3, 8, 10 and, to the extent that it requires consultation with the adoption panel, regulation 7 shall not apply to such an agency.”;
  - (d) in regulation 10 (establishment of new adoption panel on 30<sup>th</sup> December 2005)—
    - (i) in paragraph (3) for “the term of office of” substitute “a person’s term of office as”;
    - (ii) in paragraph (4) for “a member of the old adoption panel was in his first” substitute “the person served only one”; and
    - (iii) in paragraph (5) for “A member of the old adoption panel who holds office immediately before 30<sup>th</sup> December 2005” substitute “A person who has been at any time a member of an old adoption panel”;
  - (e) in regulation 11 (applications of regulations) for “11” substitute “12”;
  - (f) in regulation 17(2) (child’s permanence report) insert at the beginning “Subject to paragraph (2A),”;
  - (g) after regulation 17(2) insert—

“(2A) The adoption agency shall only send the documents referred to in paragraph (2) (b) and (c) to the adoption panel if the agency’s medical adviser advises it to do so.”;
  - (h) in regulation 20 (request to appoint officer of the Service) after “parent or guardian of the child” insert “resides in England and Wales and”;
  - (i) after regulation 20 insert—

**“20A.—**(1) Where the parent or guardian resides outside England and Wales and is prepared to consent to the placement of the child for adoption under section 19 of the Act and, as the case may be, to consent to the making of a future adoption order under section 20 of the Act, the adoption agency must arrange for the appointment of an authorised person to witness the execution of the form of consent to placement or to adoption by that parent or guardian and send to that person the information specified in Schedule 2.

(2) “Authorised person” for the purposes of this regulation means in relation to a form of consent executed—

- (a) in Scotland, a Justice of the Peace or a Sheriff;
  - (b) in Northern Ireland, a Justice of the Peace;
  - (c) outside the United Kingdom, any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose; a British Consular officer; a notary public; or, if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.”;
- (j) in regulation 25 (prospective adopter’s report)—
- (i) in paragraph (1), omit “, following the procedures referred to in regulations 23 and 24.”;
  - (ii) after paragraph (7) insert—
 

“(7A) The report shall not be completed until the adoption agency has carried out police checks in accordance with regulation 23 and made arrangements for the prospective adopter to receive preparation for adoption in accordance with regulation 24.”; and
  - (iii) in paragraph (9)(b) after “paragraphs (3) and (4)” insert “but in the case of reports obtained in accordance with paragraph (3)(a), only if the agency’s medical adviser advises it to do so”;
- (k) in regulation 26 (function of the adoption panel) —
- (i) in paragraph (1) for “paragraph (2)” substitute “paragraphs (2) and (2A)”;
  - (ii) after paragraph (2) insert—
 

“(2A) In relation to the case of a prospective adopter in respect of whom a report has been prepared in accordance with regulation 25(7), the adoption panel must either—

    - (a) request the adoption agency to prepare a further prospective adopter’s report, covering all the matters set out in regulation 25(5); or
    - (b) recommend that the prospective adopter is not suitable to adopt a child.”;
- (l) in regulation 29(1)(b) (review and termination of approval) after “prospective adopter” insert “or the agency is considering placing a child with the prospective adopter in accordance with regulations 31 to 33”;
- (m) in regulation 29(4)(c) for “sent” substitute “given to him”;
- (n) in regulation 31(3) (proposed placement) for “The adoption agency” substitute “Where the adoption agency remains of the view that the proposed placement should proceed, it”;
- (o) in regulation 36 (reviews)—
- (i) in paragraph (6)(d) omit “where the child is placed for adoption”;
  - (ii) in paragraph (6)(e) insert “where the child is placed for adoption”;

- (iii) in paragraph (8) omit “the outcome of a review and of”;
- (p) in regulation 42(1)(a) (access to case records and disclosure of information) for “section 81 of the 1989 Act (inquiries) or section 17 of the Act (inquiries)” substitute “sections 3 and 4 of the Children Act 2004<sup>(2)</sup> (inquiries held by the Children’s Commissioner) or under the Inquiries Act 2005<sup>(3)</sup>”;
- (q) in regulation 45 (modification of 1989 Act)—
  - (i) in paragraph (2)(b) for the first full stop substitute a semi-colon;
  - (ii) in paragraph (4)(a) omit “(2)(a)”;
  - (iii) in paragraph (4)(c) for the first full stop substitute a semi-colon;
- (r) in paragraph 12 of Schedule 4 (information about the prospective adopter), omit “is” and in paragraph 12(a) insert “is” before “married”;
- (s) in paragraph 1 of Schedule 5 (adoption placement plan) after “Whether” insert “the child is”.

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(2) 2004 c. 31.  
(3) 2005 c. 12.