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STATUTORY INSTRUMENTS

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**2005 No. 392**

**The Adoptions with a Foreign Element Regulations 2005**

**PART 2**

**BRINGING CHILDREN INTO AND OUT OF THE UNITED KINGDOM**

**CHAPTER 2**

**TAKING CHILDREN OUT OF THE UNITED KINGDOM**

**Requirements applicable in respect of giving parental responsibility prior to adoption abroad**

**10.** The prescribed requirements for the purposes of section 84(3) of the Act (requirements to be satisfied prior to the making of an order) are that—

- (a) in the case of a child placed by an adoption agency, that agency has—
  - (i) confirmed to the court that it has complied with the requirements imposed in accordance with Part 3 of the Agencies Regulations or corresponding Welsh provision;
  - (ii) submitted to the court—
    - (aa) the reports and information referred to in regulation 17(2) and (3) of the Agencies Regulations or corresponding Welsh provision;
    - (bb) the recommendations made by the adoption panel in accordance with regulations 18 (placing child for adoption) and 33 (proposed placement) of the Agencies Regulations or corresponding Welsh provision;
    - (cc) the adoption placement report prepared in accordance with regulation 31(2) (d) of the Agencies Regulations or corresponding Welsh provision;
    - (dd) the reports of and information obtained in respect of the visits and reviews referred to in regulation 36 of the Agencies Regulations or corresponding Welsh provision; and
    - (ee) the report referred to in section 43 of the Act as modified by regulation 11;
- (b) in the case of a child placed by an adoption agency the relevant foreign authority has—
  - (i) confirmed in writing to that agency that the prospective adopter has been counselled and the legal implications of adoption have been explained to him;
  - (ii) prepared a report on the suitability of the prospective adopter to be an adoptive parent;
  - (iii) determined and confirmed in writing to that agency that he is eligible and suitable to adopt in the country or territory in which the adoption is to be effected; and
  - (iv) confirmed in writing to that agency that the child is or will be authorised to enter and reside permanently in that foreign country or territory; and

- (c) in the case of a child placed by an adoption agency the prospective adopter has confirmed in writing to the adoption agency that he will accompany the child on taking him out of the United Kingdom and entering the country or territory where the adoption is to be effected, or in the case of a couple, the agency and relevant foreign authority have confirmed that it is necessary for only one of them to do so.

#### **Application of the Act in respect of orders under section 84**

**11.**—(1) The following provisions of the Act which refer to adoption orders shall apply to orders under section 84 as if in each place where the words “adoption order” appear there were substituted “order under section 84”—

- (a) section 1(7)(a) (coming to a decision relating to adoption of a child);
- (b) section 18(4) (placement for adoption by agencies);
- (c) section 21(4)(b) (placement orders);
- (d) section 22(5)(a) and (b) (application for placement orders);
- (e) section 24(4) (revoking placement orders);
- (f) section 28(1) (further consequences of placement);
- (g) section 29(4)(a) and (5)(a) (further consequences of placement orders);
- (h) section 32(5) (recovery by parent etc. where child placed and consent withdrawn);
- (i) section 42(7) (sufficient opportunity for adoption agency to see the child);
- (j) section 43 (reports where child placed by agency);
- (k) section 44(2) (notice of intention to adopt);
- (l) section 47(1) to (5), (8) and (9) (conditions for making orders);
- (m) section 48(1) (restrictions on making applications);
- (n) section 50(1) and (2) (adoption by a couple);
- (o) section 51(1) to (4) (adoption by one person);
- (p) section 52(1) to (4) (parental etc. consent);
- (q) section 53(5) (contribution towards maintenance); and
- (r) section 141(3) and (4)(c) (rules of procedure).

(2) Section 35(5) of the Act (return of child in other cases) shall apply to orders under section 84 of that Act as if in paragraph (b) of that subsection—

- (a) for the first reference to “adoption order” there were substituted “order under section 84(1)”; and
- (b) the words in brackets were omitted.