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WELSH STATUTORY INSTRUMENTS

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**2005 No. 1514 (W.118)**

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

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

*Made* - - - - 7 June 2005

*Coming into force* - - 30 December 2005

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 2(6)(b), 9(1)(b) and (3), 10(1), (3) and (4) of the Adoption and Children Act 2002 **(1)** and sections 22, 25 (1), 34(1), 35(1) and 118(7) of the Care Standards Act 2000 **(2)** and of all other powers enabling it in that behalf, having consulted such persons as it considers appropriate, hereby makes the following Regulations:

**PART 1  
GENERAL**

**Title, commencement and interpretation**

**1.**—(1) The title of these Regulations is the Adoption Support Agencies (Wales) Regulations 2005 and they come into force on 30 December 2005.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations —

“the 2000 Act” means the Care Standards Act 2000**(3)**;

“the 2002 Act” means the Adoption and Children Act 2002**(4)**;

“the Adoption Agencies (Wales) Regulations” means the Adoption Agencies (Wales) Regulations 2005**(5)**

“adoption support services” (“*gwasanaethau cymorth mabwysiadu*”) is to be construed in accordance with regulation 2(2);

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(1) 2002. c.38.  
(2) 2000 c. 14.  
(3) 2000 c. 14.  
(4) 2002 c. 38  
(5) S.I.2005/1313 (W.95).

“adoptive child” (“*plentyn mabwysiadol*”) means a child who is an agency adoptive child or a non-agency adoptive child;

“adoptive parent” (“*rhiant mabwysiadol*”) means a person:

- (a) who an adoption agency has decided in accordance with 34(1) of the Adoption Agencies (Wales) Regulations is a suitable adoptive parent for a particular child;
- (b) with whom an adoption agency has placed a child for adoption;
- (c) who has given notice under section 44 of the 2002 Act of his or her intention to apply for an adoption order for a child;
- (d) who has adopted a child; or
- (e) who has adopted a child who has subsequently attained the age of 18;

but does not include a person who is the step parent or natural parent of the child or was the step parent of the child before he or she adopted the child.

(4) In these Regulations —

“agency” (“*asiantaeth*”) means an adoption support agency;

“agency adoptive child” (“*plentyn mabwysiadol drwy asiantaeth*”) means a child —

- (a) in respect of whom an adoption agency has decided in accordance with regulation 19(1) of the Adoption Agencies (Wales) Regulations is a child who should be placed for adoption;
- (b) whom an adoption agency has placed for adoption; or
- (c) who has been adopted after having been placed for adoption by an adoption agency;

“child” (“*plentyn*”) means a person who has not attained the age of 18 years;

“non-agency adoptive child” (“*plentyn mabwysiadol heb fod drwy asiantaeth*”) means a child —

- (a) in respect of whom a person —
  - (i) has given notice under section 44 of the 2002 Act of his or her intention to apply for an adoption order; and
  - (ii) is not the natural parent or step parent of the child; or
- (b) who has been adopted by a person who —
  - (i) is not the natural parent of the child; and
  - (ii) was not the step parent of the child before he or she adopted the child

but does not include an agency adoptive child.

“organisation” (“*corff*”) means a body corporate;

“registration authority” (“*awdurdod cofrestru*”) means the National Assembly for Wales;

“registered manager” (“*rheolwr cofrestredig*”) means, in relation to an agency, a person who is registered under Part 2 of the 2000 Act as the manager of the agency;

“registered person” (“*person coprestredig*”) means, in relation to an agency, any person who is the registered provider or the registered manager;

“registered provider” (“*darparydd cofrestredig*”) means, in relation to an agency, a person who is registered under Part 2 of the 2000 Act as the person carrying on the agency;

“related person” (“*person perthynol*”) means —

- (a) a relative within the meaning of section 144 (1) of the 2002 Act; or

- (b) any person with whom the adoptive child has a relationship which appears to the local authority to be beneficial to the welfare of the child having regard to the matters referred to in sub paragraphs (i) to (iii) of section 1(4) (f) of the 2002 Act;

“responsible individual” (“*unigolyn cynfrifol*”) shall be construed in accordance with regulation 5(2);

“statement of purpose” (“*datganiad o ddiben*”) means the written statement compiled in accordance with regulation 3(1);

“subject” (“*gwrthrych*”) in relation to provision of adoption support services under regulations 2(2)(e) or (f) means a person with whom the person requesting the service seeks contact or about whom he or she seeks information; and

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, Sunday, Christmas day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(6).

(5) In these Regulations —

- (a) any reference to a person’s adoptive child is to a child who is an adoptive child in relation to that person;
- (b) any reference to a child’s adoptive parent is to a person who is an adoptive parent in relation to that child;
- (c) references (other than references in this sub paragraph) to a child being placed for adoption —
  - (i) are to the child being placed for adoption with a prospective adopter by an adoption agency;
  - (ii) include where the child has been placed with a person by an adoption agency, leaving the child with him or her as a prospective adopter;
- (d) any reference to employing a person includes employing a person whether or not for payment, and whether under a contract of service or a contract for services, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

### **Adoption Support Services**

2.—(1) No application for registration under Part 2 of the 2000 Act shall be made in respect of an adoption support agency which is an unincorporated body.

(2) For the purposes of these Regulations and section 2(6) of the 2002 Act (definition of “adoption support services”), the following services are prescribed —

- (a) assistance to adoptive parents, adoptive children, and related persons in relation to arrangements for contact between an adoptive child and a natural parent or a related person of the adoptive child;
- (b) services that may be provided in relation to the therapeutic needs of the child in relation to that adoption;
- (c) assistance for the purpose of ensuring the continuance of the relationship between the child and adoptive parent, including training for adoptive parents for the purpose of meeting any special needs of the child arising from that adoption;
- (d) assistance where disruption in an adoption arrangement or placement has occurred or is in danger of occurring, including:

- (i) mediation; and
  - (ii) organising and running meetings to discuss disruptions in adoptions or placements;
  - (e) assistance to adopted persons who have attained the age of 18 in obtaining information in relation to their adoption or facilitating contact between such persons and their relatives;
  - (f) assistance to relatives of adopted persons who have attained the age of 18, in obtaining information in relation to that adoption or facilitating contact between such persons and the adopted person.
- (3) For the purposes of Regulations 2(2) (e) or (f) 'relative' means any person who but for his or her adoption would be related to the adopted person by blood, including half blood or marriage.

### **Statement of purpose and children's guide**

3.—(1) The registered person must compile in relation to the agency a written statement (in these Regulations referred to as “the statement of purpose”) which must consist of a statement as to the matters listed in Schedule 1.

(2) The registered person must provide a copy of the statement of purpose to the registration authority.

(3) The registered person must make a copy of the statement of purpose available, upon request for inspection by —

- (a) any person working for the purposes of the agency;
- (b) any person receiving adoption support services from the agency or acting on behalf of a child receiving such services from the agency;
- (c) any person making enquiries about receiving adoption support services from the agency on his or her own or a child's behalf;
- (d) any local authority.

(4) The registered person in relation to an agency which provides adoption support services to children must produce a written guide to the agency (in these Regulations referred to as “the children's guide”) which must include —

- (a) a summary of the agency's statement of purpose;
- (b) a summary of the complaints procedure established under regulation 19(1); and
- (c) the address and telephone number of the registration authority.

(5) The children's guide must be produced in a form appropriate to the age, understanding and communication needs of the children to whom the agency provides adoption support services.

(6) The registered person must provide a copy of the children's guide to the registration authority, to any adult acting on behalf of a child to whom the agency provides adoption support services and (subject to his or her age and understanding) to each such child.

(7) Subject to paragraph (8), the registered person must ensure that the agency is at all times conducted in a manner that is consistent with its statement of purpose.

(8) Nothing in paragraph (7) shall require or authorise the registered person to contravene, or not comply with —

- (a) any other provision of these Regulations; or
- (b) any conditions for the time being in force in relation to the registration of the registered provider under Part 2 of the 2000 Act.

### **Review of statement of purpose and children’s guide**

4. The registered person must —
- (a) keep under review and, where appropriate, revise the statement of purpose and children’s guide;
  - (b) notify the registration authority of any such revision within 28 days; and
  - (c) if the children’s guide is revised, supply a copy to any adult acting on behalf of a child to whom the agency provides adoption support services and (subject to his age and understanding) to each such child.

## **PART 2**

### **REGISTERED PROVIDERS, RESPONSIBLE INDIVIDUALS AND MANAGERS**

#### **Fitness of registered provider**

- 5.—(1) An organisation must not carry on an agency unless it is fit to do so.
- (2) An organisation is not fit to carry on an agency unless —
- (a) it has given notice to the registration authority of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the agency; and
  - (b) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are —
- (a) he or she is of suitable integrity and good character to carry on the agency;
  - (b) he or she is physically and mentally fit to carry on the agency; and
  - (c) full and satisfactory information or documentation is available in relation to him or her in respect of each of the matters specified in Schedule 2.

#### **Appointment of manager**

- 6.—(1) The registered provider must appoint an individual to manage the agency (in these Regulations referred to as 'the registered manager').
- (2) The registered provider must immediately notify the registration authority of —
- (a) the name of any person appointed in accordance with this regulation; and
  - (b) the date on which the appointment is to take effect.

#### **Fitness of manager**

- 7.—(1) The registered provider must not allow a person to manage the agency unless he or she is fit to do so.
- (2) A person is not fit to manage an agency unless —
- (a) he or she is of suitable integrity and good character;
  - (b) having regard to the size of the agency and the agency’s statement of purpose —
    - (i) he or she has the qualifications, skills and experience necessary for managing the agency; and

- (ii) he or she is physically and mentally fit to manage the agency; and
- (c) full and satisfactory information is available in relation to him or her in respect of each of the matters specified in Schedule 2.

#### **Registered person — general requirements**

8.—(1) The registered provider and the registered manager must, having regard to —

- (a) the size of the agency and the agency’s statement of purpose; and
- (b) the need to safeguard and promote the welfare of those receiving adoption support services from the agency,

carry on or manage the agency with sufficient care, competence and skill.

(2) The registered provider must ensure that the responsible individual undertakes from time to time such training as is appropriate to ensure that he or she has the experience and skills and expertise necessary for carrying on the agency.

(3) The registered provider must ensure that the registered manager undertakes from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary for managing the agency.

#### **Notification of offences**

9.—(1) Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, he or she must immediately give notice in writing to the registration authority of—

- (a) the date and place of the conviction;
- (b) the offence of which he or she was convicted;
- (c) the penalty imposed on him or her in respect of the offence.

## **PART 3**

### **APPLICATIONS FOR ADOPTION SUPPORT SERVICES**

#### **Applicability of provisions**

10. The following provisions contained in this Part are only applicable to agencies which provide adoption support services under regulations 2(2)(e) or (f).

#### **No obligation to proceed if not appropriate**

11.—(1) An agency that provides adoption support services under regulations 2(2)(e) or (f) is not required to commence with provision of such services, or having begun to provide those services, is not required to continue if the agency considers it would not be appropriate to do so.

(2) In deciding whether it is appropriate to provide those services (or commence provision of such services) the agency must have regard to:

- (a) the welfare of the adopted person requesting the service;
- (b) the welfare of the relative requesting the service;
- (c) any veto recorded under regulation 13;
- (d) any information held by the Registrar General on the Adoption Contact Register;

and all the other circumstances of the case.

(3) An agency must not commence or continue with provision of services to an adopted person or relative, for assistance in contacting a person who is below the age of 18 unless—

- (a) there are exceptional circumstances and,
- (b) the provisions of paragraph (4) are complied with.

(4) An agency must not proceed with the provision of services of the sort referred to in sub paragraph (3) unless—

- (a) a person with parental responsibility for the child has given his or her consent and
- (b) either
  - (i) the child being competent, has consented, or
  - (ii) any wishes or feelings of a child who is not competent have been taken into account.

#### **Consent of subject to disclosure etc**

**12.**—(1) An agency must not disclose any identifying information about the subject to the person requesting that information without first obtaining the consent of the subject.

(2) The agency must take all reasonable steps to ensure that the subject has enough information to enable him or her to make an informed decision as to whether to give his or her consent to any such disclosure.

(3) If the subject has died or the agency determines that he or she is incapable of giving consent the agency may disclose such identifying information about the subject as is appropriate taking into consideration the welfare of those who may be affected by the disclosure and this process may include eliciting views of those persons.

(4) In this regulation and in regulation 14, “identifying information” means information which whether taken on its own or together with other information possessed by the person requesting it, enables the subject to be identified and traced.

#### **Veto by an adopted person or relative**

**13.**—(1) A veto applies in relation to the provision of adoption support services under regulations 2(2) (e) or (f) where—

- (a) the subject is the adopted person; or
- (b) the subject is a relative of the adopted person; and
- (c) that person has notified the agency in writing that —
  - (i) he or she does not wish to be contacted by the agency; or
  - (ii) he or she only wishes to be contacted under specified circumstances or by specified persons.

(2) Where the agency is notified of a veto under paragraph (1) it must keep a record of it.

(3) Where an agency is aware that a veto applies, it must not proceed with the application.

#### **Provision of background information where consent refused etc**

**14.** In a case where the consent of the subject is refused or cannot be obtained under regulation 12 or a veto applies under regulation 13, nothing in those regulations prevents the agency from disclosing any information about the subject that is not identifying information and that the agency considers it appropriate to disclose to the adopted person or relative making the request.

## **Counselling**

**15.**—(1) An agency must provide written information about the availability of counselling to any person who—

- (a) makes a request for adoption support services under Regulations 2(2)(e) or (f); or
- (b) is the subject of such an application and is considering whether to consent to disclosure of information about him or her to the person requesting it.

(2) The information provided under paragraph (1) must include—

- (a) descriptions of persons offering counselling; and
- (b) fees that may be charged by such persons.

(3) If a person mentioned in paragraph (1) requests that counselling be provided for him or her, the adoption support agency must secure the provision of counselling services for that person.

(4) The agency may provide such counselling services itself or make arrangements either with—

- (a) another registered provider of adoption support services, or
- (b) a person who provides such services under contract to a registered provider.

(5) where the subject of an application chooses not to avail himself or herself of a counselling service for which a fee is payable, the adoption support agency must nevertheless provide support and assistance to the subject in making a decision.

## **PART 4**

### **CONDUCT OF AGENCIES**

#### **Arrangements for the protection of children**

**16.**—(1) The registered person in relation to an agency providing adoption support services must prepare and implement a written policy which —

- (a) is intended to safeguard from abuse or neglect children receiving adoption support services from the agency; and
- (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

(2) The procedure under paragraph (1)(b) must provide in particular for —

- (a) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in respect of the child;
- (b) written records to be kept of any allegation of abuse or neglect and the action taken in response; and
- (c) arrangements to be made for persons working for the purposes of the agency and adults and children to whom the agency has provided adoption support services to have access to information that would enable them to contact —

- (i) the local authority in whose area the agency is situated and any other local authority on behalf of whom the agency is providing adoption support services to a child, and
- (ii) the registration authority,

regarding any concern about child welfare or safety.



(3) In this regulation “child protection enquiries” means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the Children Act 1989(7) relating to the protection of children.

### **Provision of services**

17. The registered person must ensure that adoption support services provided to any person as part of a local authority assessment are appropriate to the needs for such services as identified by that assessment carried out by a local authority.

### **Records with respect to services**

18.—(1) The registered person must maintain and keep up to date the following records indicating in respect of each person to whom the agency provides adoption support services —

- (a) full name;
- (b) date of birth;
- (c) whether the persons are:
  - (i) children who may be adopted, their parents and guardians;
  - (ii) persons wishing to adopt a child;
  - (iii) adopted persons, their parents, natural parents, former guardians and related persons;
- (d) description of services requested;
- (e) description of needs as assessed by a local authority;
- (f) description of services provided;
- (g) whether the services are provided on behalf of a local authority under regulations made under section 3(4)(b) of the 2002 Act.

(2) The records specified in paragraph (1) shall be retained for at least seventy five years from the date of the last entry.

### **Complaints**

19.—(1) The registered person must establish a written procedure for considering complaints (referred to in these Regulations as “the complaints procedure”) made by or on behalf of any person who has requested, or to whom the agency has provided, adoption support services.

- (2) The complaints procedure must, in particular, provide —
- (a) an opportunity for informal resolution of a complaint at an early stage;
  - (b) that no person who is the subject of a complaint takes part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;
  - (c) for dealing with complaints about the registered person; and
  - (d) in the case of an agency providing adoption support services to children, for complaints to be made by a person acting on behalf of a child.

(3) The registered person must provide a copy of the complaints procedure to every person working for the purposes of the agency and must provide, upon request, a copy of the procedure to any person mentioned in paragraph (1) or any person acting on behalf of a child.

- (4) The copy of the complaints procedure supplied under paragraph (3) must include —
- (a) the name, address and telephone number of the registration authority; and

- (b) details of the procedure (if any) which has been notified to the registered person by the registration authority for the making of complaints to the registration authority that relate to the agency.

### **Complaints — further requirements**

**20.**—(1) The registered person must ensure that any complaint made under the complaints procedure is fully investigated.

(2) The registered person must, so far as is reasonably practicable, within a period of 20 working days beginning on the date on which the complaint is received by the agency, inform the complainant of the action (if any) that is to be taken in response to the complaint.

(3) The registered person must ensure that a written record is made of any complaint, including details of the investigation made, the outcome and any action taken in consequence.

(4) The registered person must take all reasonable steps to ensure that —

- (a) children are enabled to make a complaint; and
- (b) no person is subject to any reprisal by the agency for making a complaint.

(5) The registered person must supply to the registration authority, at its request a statement containing a summary of any complaints made during the preceding 12 months and the action that was taken in response.

### **Staffing of agency**

**21.**—(1) The registered person must ensure that there is, having regard to —

- (a) the size of the agency and its statement of purpose, and
- (b) the need to safeguard and promote the health and welfare of children to whom the agency provides adoption support services,

provide a sufficient number of suitably qualified, competent and experienced persons working for the purposes of the agency.

### **Fitness of workers**

**22.**—(1) The registered person must not —

- (a) employ a person to work for the purposes of the agency unless that person is fit to work for the purposes of the agency; or
- (b) allow a person who is employed by a person other than the registered provider to work for the purposes of the agency unless that person is fit to work for the purposes of the agency.

(2) For the purposes of paragraph (1) a person is not fit to work for the purposes of an agency unless —

- (a) he or she is of suitable integrity and good character;
- (b) he or she has the qualifications, skills, competence and experience necessary for the work he or she is to perform;
- (c) he or she is physically and mentally fit for the work he or she is to perform; and
- (d) full and satisfactory information is available in relation to him or her in respect of each of the matters specified in Schedule 2.

### **Employment of staff**

**23.**—(1) The registered person must —

- (a) ensure that all permanent appointments of staff employed for the purposes of the agency are subject to the satisfactory completion of a period of probation; and
  - (b) provide all employees with a job description outlining their responsibilities.
- (2) The registered person must ensure that all persons employed by the agency —
- (a) receive appropriate training, supervision and appraisal; and
  - (b) are enabled from time to time to gain further qualifications appropriate to the work they perform.

### **Staff disciplinary procedure**

- 24.**—(1) The registered person must operate a disciplinary procedure which, in particular —
- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of persons to whom the agency provides adoption support services;
  - (b) provides that the failure on the part of an employee to report, to an appropriate person, an incident of abuse, or suspected abuse, of a child is a ground on which disciplinary proceedings may be instituted.
- (2) For the purposes of paragraph (1)(b), an appropriate person is —
- (a) the registered person;
  - (b) an officer of the registration authority;
  - (c) a police officer;
  - (d) an officer of the National Society for the Prevention of Cruelty to Children; and
  - (e) an officer of a local authority in whose area the agency is situated.

### **Records in respect of staff**

- 25.**—(1) The registered person must maintain and keep up to date the records specified in Schedule 3.
- (2) The records referred to in paragraph (1) must be retained for at least 15 years from the date of the last entry.

### **Fitness of premises**

- 26.**—(1) The registered person must not use the premises for the purposes of the agency unless the premises are suitable for the purpose of achieving the aims and objectives set out in its statement of purpose.
- (2) The registered person must ensure —
- (a) that there are adequate security arrangements at the premises, in particular that there are secure facilities for the storage of records; and
  - (b) that any records which are, for any reason, not on the premises are nevertheless kept in conditions of appropriate security.

## PART 5

### MISCELLANEOUS — AGENCIES

#### Notifiable events

27.—(1) If, in relation to an agency, any of the events listed in column 1 of the table in Schedule 4 (“the table”) takes place, the registered person must without delay notify the person indicated in respect of the event in column 2 of the table.

(2) Any notification made in accordance with this regulation which is given orally must be confirmed in writing within 10 working days.

(3) In the table —

“relevant authority” means —

- (a) the local authority in whose area the agency is situated, and
- (b) in relation to a child who has died or sustained serious injury in the course of receiving adoption support services any other local authority on behalf of whom the agency is providing adoption support services to that child under regulations made under section 3(4)(b) of the 2002 Act;
- (c) “Local Health Board” and “Primary Care Trust” means the Local Health Board or Primary Care Trust in whose area the child who has died or sustained serious injury in the course of receiving adoption support services was living at the time of the incident.

#### Financial position

28.—(1) The registered provider must:

- (a) carry on the agency in such a manner as is likely to ensure that it will be financially viable for the purpose of achieving the aims and objectives set out in its statement of purpose; and
- (b) ensure that adequate accounts are maintained and kept up to date in respect of the agency.

(2) The registered provider must if the registration authority so requests, provide the registration authority with such information and documents as it may require for the purpose of considering the financial viability of the agency, including —

- (a) the annual accounts of the agency certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider’s financial standing;
- (c) information as to the financing and financial resources of the agency;
- (d) information as to any of the organisation’s associated companies; and
- (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by him or her in relation to the agency in respect of death, injury, public liability, damage or other loss.

#### Notice of absence

29.—(1) Where the manager proposes to be absent from the agency for a continuous period of 28 days or more the registered person must give notice in writing to the registration authority of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) must be given no later than one month before the proposed absence is to start, or within such shorter period as may be agreed with the registration authority, and the notice must specify —

- (a) the length or expected length of the proposed absence;
- (b) the reason for the proposed absence;
- (c) the arrangements which have been made for the running of the agency during that absence;
- (d) the name, address and qualifications of the person who will be responsible for the management of the agency during the absence; and
- (e) the arrangements that have been made or are proposed to be made for appointing another person to manage the agency during the absence, including the proposed date by which the appointment is to start.

(3) Where the absence arises as a result of an emergency, the registered person must give notice of the absence within one week of its occurrence, specifying the matters mentioned in paragraph (2) (a) to (e).

(4) Where the registered manager has been absent from the agency for a continuous period of 28 days or more, and the registration authority has not been given notice of the absence, the registered person, shall without delay give notice in writing to the registration authority specifying the matters mentioned in paragraph (2)(a) to (e).

(5) The registered person must notify the registration authority of the return to duty of the registered manager not later than 5 working days after the date of his or her return.

#### **Notice of changes**

**30.**—(1) The registered person must give notice in writing to the registration authority as soon as it is practicable to do so if any of the following events take place or is proposed to take place —

- (a) a person other than the registered provider carries on the agency;
- (b) a person ceases to manage the agency;
- (c) the name or address of the registered provider is changed;
- (d) there is any change of trustee, or director, manager, secretary or other similar officer of the registered provider; or
- (e) there is to be any change in the identity of the responsible individual;
- (f) a receiver, manager, liquidator or provisional liquidator is appointed in respect of the registered provider;
- (g) the agency intends to cease to act or exist as such.

(2) The registered provider must notify the registration authority in writing and without delay of the death of the responsible individual or the registered manager.

#### **Appointment of liquidators etc**

**31.**—(1) Any person to whom paragraph (2) applies must —

- (a) forthwith notify the registration authority of his or her appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day to day control of the agency in any case where there is no manager; and
- (c) not more than 20 working days after his or her appointment notify the registration authority of his or her intentions regarding the future operation of the agency.

(2) This paragraph applies to any person appointed as —

- (a) the receiver or manager of the property of a registered provider;
- (b) the liquidator or provisional liquidator of a registered provider.

## Offences

**32.**—(1) A contravention or failure to comply with any of the provisions of regulations 3 to 8, 12, 16 to 30 is an offence by virtue of section 9(3) of the 2002 Act.

(2) A contravention or failure to comply with any of the provisions of regulations 9 or 31 is an offence by virtue of section 25(2) of the 2000 Act.

(3) The registration authority may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 18 or 25.

## Compliance with regulations

**33.** Where anything is required under these Regulations to be done by more than one person, it must, if done by one of those persons, not be required to be done by the other person or, as the case may be, persons.

## Amendment of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002

**34.**—(1) The Registration of Social Care and Independent Health Care (Wales) Regulations 2002<sup>(8)</sup> are amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) —

(a) at the appropriate place insert —

““Adoption Support Agency” has the same meaning given by section 8 of the Adoption and Children Act 2002”;

(b) in the definition of ““appropriate office”” after paragraph (i) insert —

“(j) in relation to an adoption support agency, any office of the National Assembly for Wales.”;

(c) in the definition of “statement of purpose” insert —

“(k) in relation to an adoption support agency, the written statement required to be compiled in relation to the agency in accordance with regulation 3 of the Adoption Support Agencies (Wales) Regulations 2005;”.

## Transitional Provisions

**35.**—(1) This Regulation applies to adoption support agencies who by virtue of the provisions of the 2000 Act and these Regulations are required to be registered under the Act but who immediately before 30 December 2005 were not required to be so registered.

(2) Notwithstanding any such provision an adoption support agency which immediately before 30 December 2005 was carrying on or managing an agency may continue to carry on or manage the agency without being registered under the 2000 Act —

(a) during the period of 3 months beginning with that date; and

(b) if within that period application is made for registration, until that application is finally disposed of or withdrawn.

(3) In this regulation ‘finally disposed of’ means the date 20 working days following the grant or refusal of registration and, if an appeal is made, the date when the appeal is finally determined or abandoned.

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(8) 2002/919 (W.107).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(9)</sup>

7 June 2005

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

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## SCHEDULE 1

Regulation 3(1)

### INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. The aims and objectives of the agency.
2. The name and address of the registered provider, the responsible individual and the registered manager.
3. Any conditions for the time being in force in relation to the registration under Part 2 of the 2000 Act of the registered persons.
4. The relevant qualifications and experience of the registered manager.
5. The number, relevant qualifications and experience of the staff working for the purposes of the agency.
6. The organisational structure of the agency.
7. A description of the services offered by the agency.
8. The system in place to monitor and evaluate the provision of services to ensure that the services provided by the agency are effective and the quality of those services is of an appropriate standard.
9. A summary of the complaints procedure.
10. The name, address and telephone number of the registration authority.

## SCHEDULE 2

Regulations 5(3)(c), 7(2)(c), 22(2)(d)

### INFORMATION REQUIRED IN RESPECT OF THE RESPONSIBLE INDIVIDUAL OR PERSONS SEEKING TO MANAGE OR WORK FOR THE PURPOSES OF AN AGENCY

1. Proof of identity including a recent photograph.
2. Either —
  - (a) where the certificate is required for a purpose relating to section 115(5)(ea) of the Police Act 1997 (registration under Part 2 of the 2000 Act)(**10**), or the position falls within section 115(3) or (4) of the Police Act 1997(**11**), an enhanced criminal record certificate issued under section 115 of that Act in respect of which less than 3 years has elapsed since it was issued; or
  - (b) in any other case, a criminal record certificate issued under sections 113 of that Act, in respect of which less than 3 years have elapsed since it was issued,including, to the extent permitted under the Police Act 1997 the matters specified in sections 113(3A) or (3C) or 115(6A) or (6B)of that Act(**12**).
3. Two written references, including a reference from the person's most recent employer, if any.
4. Where a person has previously worked in a position whose duties included work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the employment or position ended.

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(10) 1997 c. 50. Section 115(5)(ea) is inserted by the Care Standards Act 2000, section 104 c.14.

(11) A position is within section 115(3) if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18.

(12) Sections 113(3A) and 115(6A) are inserted in the Police Act 1997 by section 8 of the Protection of Children Act 1999 c. 14 and amended by sections 104, 106 and 116 of, and paragraph 25 of Schedule 4 to, the Care Standards Act 2000.



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5. Documentary evidence of any relevant qualification.
6. A full employment history, together with a satisfactory written explanation of any gaps in employment.

### SCHEDULE 3

Regulation 25(1)

#### RECORDS TO BE KEPT IN RELATION TO EACH PERSON WORKING FOR THE PURPOSES OF AN AGENCY

A record indicating in respect of each person working for the purposes of the agency —

1. Full name.
2. Sex.
3. Date of birth.
4. Home address.
5. Qualifications relevant to, and experience of, working with persons receiving adoption support services and (in relation to an agency which provides adoption support services to children) qualifications relevant to and experience of work involving children.
6. The dates on which he or she commences and ceases to be so employed by the agency.
7. Whether he or she is employed by the registered provider under a contract of service or a contract for services, or is employed by someone other than the registered provider.
8. His or her job description and whether he or she works full-time or part-time and the number of hours for which he or she is employed by, or contracted to work for, the registered provider each week.
9. Training undertaken by him or her, supervision, appraisal, disciplinary action (if any) taken against him or her, complaints (if any) made against or concerning him or her and the outcome of such complaints and any other matters in relation to his or her employment for the purposes of the agency.

### SCHEDULE 4

Regulation 27(1)

#### EVENTS AND NOTIFICATIONS

<i>Column 1</i> Event	<i>Column 2</i> To be notified to:		
	Registration authority	Local Health Board/ Primary Care Trusts	Relevant authority
Referral to Secretary of State or the Assembly pursuant to section 2(1)(a) of the Protection of Children Act 1999 of an individual working for the agency	Yes		

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<i>Column 1</i>	<i>Column 2</i>		
Event	To be notified to:		
	Registration authority	Local Health Board/ Primary Care Trusts	Relevant authority
Death or serious injury of an adult or child in the course of receiving adoption support services from the agency	Yes	Yes	Yes (where death or serious injury of a child)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made partly under the Care Standards Act 2000 (“the 2000 Act”) and partly under the Adoption and Children Act 2002 (“the 2002 Act”). The 2000 Act established a new regulatory system for care services in Wales; section 8(3) of the 2002 Act amends the 2000 Act with the effect that a person cannot carry on or manage an adoption support agency without being registered under Part 2 of the 2000 Act. The 2002 Act provides powers for the National Assembly for Wales, as the registration authority, to regulate adoption support agencies. An agency applying to the registration authority for registration under the 2000 Act will have to demonstrate compliance with these Regulations. The registration authority is the National Assembly for Wales.

Section 2(6) of the 2002 Act provides that counselling, advice and information and any other services prescribed by regulations, in relation to adoption, are adoption support services. Regulation 2 of these Regulations prescribes services which are adoption support services for the purposes of these regulations.

Regulations 3 and 4 make provision for the statement of purpose and children’s guide. Each adoption support agency must have a statement of purpose setting out the aims and objectives of the agency. The statement of purpose must be kept under review and revised when necessary. The agency must be carried on in a manner that is consistent with the statement of purpose. An agency which provides services to children must produce a written guide to the agency which is suitable for children.

Regulations 5 to 9 make provision about the persons carrying on and managing an adoption support agency. Regulation 5 requires an agency to nominate a responsible individual for supervising the management of the agency.

Regulation 6 requires a manager to be appointed for the agency. Provision is made for the fitness of the manager, in particular by the requirement that satisfactory information be obtained in relation to the matters specified in Schedule 2 (regulation 7). Regulation 8 imposes general requirements in relation to the proper conduct of an adoption support agency, and the need for appropriate training. Regulation 9 requires the responsible individual and registered person to notify the registration authority of convictions.

Regulations 10 — 15 deal with applications for adoption support services which assist the adopted person or relative to obtain information or facilitate contact. Regulation 11 does not require the agency to provide such services where it is considered inappropriate and sets out the factors the

agency should take into account in making that decision. Regulation 12 requires the agency to obtain the informed consent of the subject of the application before disclosing information about him or her that would identify him or her or enable him or her to be traced by the person making the request. Regulation 13 enables the adopted person or relative to register a veto with the agency. Regulation 14 makes provision for background information to be disclosed where consent is refused. Regulation 15 requires the agency to provide information about counselling and secure counselling services in relation to applications for such adoption support services under regulation 2(e) or (f). Adoption support agencies must themselves provide support and assistance to a person who is the subject of an adopted person or relative's request for information or contact if the person chooses not to avail themselves of a counselling service.

Regulations 16 to 26 make provision about the conduct of an adoption support agency, in particular as to the protection of children (regulation 16) providing service appropriate to a user's needs (regulation 17) record keeping in relation to services provided (regulation 18) complaints (regulations 19 and 20) staffing (including record keeping in relation to staff) and fitness of staff and premises (regulations 21 to 26).

Regulation 27 provides that the registered provider and registered manager are to give notice of the events described in Schedule 4 to the persons specified in that Schedule. Regulation 28 imposes requirements relating to an adoption support agency's financial position. Regulations 29 to 31 provide for the giving of notices to the registration authority and the appointment of liquidators. Regulation 32 provides for offences in contravention of or failure to comply with provisions in the Regulations.

Regulation 33 provides that where these Regulations place a requirement on more than one person, if one of those who is obliged to meet that requirement does so, the other person is not also obliged to meet that requirement. Regulation 34 amends the Registration of Social Care and Independent Health Care (Wales) Regulations 2002. Regulation 35 provides for the transitional arrangements for registration of adoption support agencies.