
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Adoption Agencies (Wales) Regulations 2005 (“the Principal Regulations”), which make provision about the exercise by adoption agencies (that is, local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002. They come into force on 1 September 2012.

The Principal Regulations require that, when an adoption agency is considering adoption for a child, the agency must refer the case to an adoption panel, which must then make a recommendation to the agency as to whether the child should be placed for adoption.

Section 22(1) and (2) of the Adoption and Children Act 2002 provide that, where a local authority decides that a child should be placed for adoption, and the criteria set out in either of those provisions are met, the local authority must then apply to the court for a placement order.

These Regulations change the process in cases where the local authority, as the adoption agency, is considering whether the child ought to be placed for adoption in circumstances where, if they decide that the child should be so placed, the decision triggers the duty under s22(1) or s22(2) to apply for a placement order. In those cases the adoption agency is now prohibited from referring the case to the adoption panel before making its decision.

The Adoption Agencies Regulations 2005 make provision in relation to England about the exercise of adoption agencies' functions in relation to adoption. Corresponding amendments will be made to those Regulations with effect from 1 September 2012. Consequential amendments to the Adoption with a Foreign Element Regulations 2005 will also come into force on this date.

These Regulations also revoke regulation 9 of the Local Authority Adoption Services (Wales) Regulations 2007. With the exception of regulation 9(1)(b) and 9(1)(c), regulation 9 imposes the same duties on local authorities as are imposed on them as adoption agencies in the Principal Regulations. To the extent that requirements in regulation 9(1)(b) (regarding written policies for adoption panels) are not already reflected in regulation 7 of the Principal Regulations, regulation 7 is amended accordingly. The duty described in regulation 9(1)(c) (advice in cases with a foreign element) is imposed on adoption agencies by the insertion of regulation 8A into the Principal Regulations.

An impact assessment has not been prepared for these Regulations because no impact on the private, voluntary or public sectors is foreseen.