STATUTORY INSTRUMENTS

2013 No. 985

CHILDREN AND YOUNG PERSONS, ENGLAND

The Adoption Agencies (Miscellaneous Amendments) Regulations 2013

Made - - - -	*30th April 2013*
Laid before Parliament	*7th May 2013*
Coming into force - -	*1st July 2013*

The Secretary of State for Education, makes the following Regulations in exercise of the powers conferred by sections 22C(11), 26(3) to (3B), 104(4) of and paragraph 12F(1)(b) of Schedule 2 to the Children Act 1989(**a**), sections 1(1) and (3) of the Adoption (Intercountry Aspects) Act 1999(**b**) and sections 4, 9(1)(a), 11(2) and (3), 12, 45(1) and (2), 54, 83(4) and (5), 94(1), 140(7) and (8) and 142(5) of the Adoption and Children Act 2002(**c**), and after consultation with the Welsh Ministers.

Citation and commencement

1. These Regulations may be cited as the Adoption Agencies (Miscellaneous Amendments) Regulations 2013 and come into force on 1st July 2013.

Amendment of the Adoption Agencies Regulations 2005

2. The Adoption Agencies Regulations 2005(**d**) are amended as follows.

3. In regulation 2 (interpretation) in paragraph (1)—

(a) in the appropriate places insert—

""the 1989 Regulations" means the Children Act 1989 Representations Procedure (England) Regulations 2006(**e**);";

""the Adoption Register" means the register containing information about children who are suitable for adoption and prospective adopters who are suitable to adopt a child which is maintained on behalf of the Secretary of State and the Welsh Ministers;";

""preparation for adoption" has the meaning given in regulation 24;";

""prospective adopter assessment plan" has the meaning given in regulation 29;";

(**a**) 1989 c.41. Section 22C was inserted by section 8(1) of the Children and Young Persons Act 2008 (c.23) ('the 2008 Act'); sections 26(3A) and (3B) were inserted by the Adoption and Children Act 2002 (c.38); section 104(4) was amended by section 39 of, and Schedules 3 and 4 to, the 2008 Act and paragraph 12F of Schedule 2 was substituted by paragraph 4 of Schedule 1 to the 2008 Act. For the definition of "prescribed" see section 105(1).

(**b**) 1999 c.18.

(**c**) 2002 c.38. Section 12 was amended by section 57 of the Children Act 2004 (c.31) and by sections 34 and 42 of, and Schedule 4 to, the 2008 Act. Section 83 was amended by the Children and Adoption Act 2006 (c.20). See section 144 for the definition of "regulations".

(**d**) S.I. 2005/389, amended by S.I. 2005/3482, 2007/603, 2009/1892, 2009/1895, 2010/1172 and 2011/589.

(**e**) S.I. 2006/1738.

""prospective adopter matching plan" has the meaning given in regulation 30H;";

""prospective adopter stage one plan" has the meaning given in regulation 22;";

(b) in the definition of "prospective adopter's report" for the words "regulation 25(5)" substitute "regulation 30(2)";

(c) in the definition of "prospective adopter's review report" for the words "regulation 29(4)(a)" substitute "regulation 30D(4)(a)"; and

(d) in the definition of "qualifying determination" for the words "regulation 27(4)(a)" substitute "regulation 30B(5)(a)".

4. After regulation 19 insert—

"**19A.**—(1) Where an adoption agency—

(a) decides, in accordance with regulation 19, that a child should be placed for adoption, and

(b) has not identified particular prospective adopters with whom it is considering placing the child for adoption,

the agency must give the information about the child requested by the organisation which maintains the Adoption Register to that organisation for entry in the Register as soon as possible and in any event no later than three months after that decision.

(2) Where an adoption agency becomes aware of any changes to the information about the child the agency must notify the organisation which maintains the Register of those changes as soon as reasonably practicable.".

5. For Part 4 substitute—

"PART 4

Duties of Adoption Agency in Respect of a Prospective Adopter

Stage 1 – the pre-assessment process

Registration of interest in adoption

21. Regulations 22 to 27 apply when a person has notified an adoption agency that they want to adopt a child and the agency has notified that person that it has decided to proceed with the pre-assessment process in respect of that person.

Prospective adopter stage one plan

22. The adoption agency must prepare a written plan in consultation with the prospective adopter ("the prospective adopter stage one plan") which includes the following matters—

(a) information about the counselling, information and preparation for adoption to be provided under regulation 24;

(b) the procedure for carrying out police checks under regulation 25;

(c) details of any training that the prospective adopter has agreed to undertake;

(d) information about the role of the prospective adopter in the stage one process;

(e) any applicable timescales;

(f) information about the process for making a representation (including a complaint) under the 1989 Regulations; and

(g) any other information that the agency considers relevant.

Prospective adopter's case record

23.—(1) The adoption agency must set up a case record in respect of the prospective adopter ("the prospective adopter's case record") and place on that case record—

(a) the prospective adopter stage one plan;

(b) the information and reports obtained by the agency by virtue of this Part;

(c) the prospective adopter assessment plan;

(d) the prospective adopter's report and the prospective adopter's observations on that report;

(e) the written record of the proceedings of the adoption panel under regulation 30A (and where applicable regulation 30B(8)), its recommendation, the reasons for the recommendation and any advice given by the panel to the agency;

(f) the record of the agency's decision under regulation 30B(1), (6) or as the case may be (9);

(g) where the prospective adopter applied to the Secretary of State for a review by an independent review panel the recommendation of that review panel;

(h) where applicable, the prospective adopter's review report and the prospective adopter's observations on that report;

(i) the prospective adopter matching plan; and

(j) any other documents or information obtained by the agency which it considers should be included in that case record.

(2) The adoption agency may ask the prospective adopter to provide any further information the agency may reasonably require.

Requirement to provide counselling, information and preparation for adoption

24.—(1) The adoption agency must—

(a) provide a counselling service for the prospective adopter;

(b) in a section 83 case, explain to the prospective adopter, and provide written information about, the procedure in relation to, and the legal implications of, adopting a child from the country from which the prospective adopter wishes to adopt;

(c) in any other case, explain to the prospective adopter, and provide written information about, the procedure in relation to, and the legal implications of, placement for adoption and adoption;

(d) provide the prospective adopter with any information and any training materials relating to adopting a child available for use; and

(e) make arrangements for the prospective adopter to receive such preparation for adoption as the agency considers appropriate.

(2) In paragraph (1)(e) "preparation for adoption" includes the provision of information to the prospective adopter about—

(a) the age range, sex, likely needs and background of children who may be placed for adoption by the adoption agency;

(b) the significance of adoption for a child and the child's family;

(c) contact between a child and the child's parent or guardian or other relatives where a child is authorised to be placed for adoption or is adopted;

(d) the skills which are necessary for an adoptive parent;

(e) the adoption agency's procedures in relation to the assessment of a prospective adopter and the placement of a child for adoption; and

(f) the procedure in relation to placement for adoption and adoption.

Requirement to carry out police checks

25.—(1) In respect of the prospective adopter and any other member of the prospective adopter's household who is aged 18 or over, the adoption agency must obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997(**a**) which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act).

(2) An adoption agency may not consider a person suitable to adopt a child if that person or any member of that person's household aged 18 or over—

(a) has been convicted of a specified offence committed at the age of 18 or over; or

(b) has been cautioned by a constable in respect of any such offence which, at the time the caution was given, was admitted.

(3) In paragraph (2) "specified offence" means—

(a) an offence against a child;

(b) an offence specified in Part 1 of Schedule 3;

(c) an offence contrary to section 170 of the Customs and Excise Management Act 1979(**b**) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)(**c**) where the prohibited goods included indecent photographs of children under the age of 16;

(d) any other offence involving bodily injury to a child, other than an offence of common assault or battery,

and the expression "offence against a child" has the meaning given to it by section 26(1) of the Criminal Justice and Courts Services Act 2000(**d**) except that it does not include an offence contrary to section 9 of the Sexual Offences Act 2003 (sexual activity with a child)(**e**) in a case where the offender was under the age of 20 and the child was 13 or over at the time the offence was committed.

(4) An adoption agency may not consider a person suitable to adopt a child if that person or any member of that person's household aged 18 or over—

(a) has been convicted of an offence specified in paragraph 1 of Part 2 of Schedule 3 committed at the age of 18 or over or has been cautioned by a constable in respect of any such offence which, at the time the caution was given, was admitted; or

(b) falls within paragraph 2 or 3 of Part 2 of Schedule 3,

notwithstanding that the offences specified in Part 2 of Schedule 3 have been repealed.

(5) Where an adoption agency becomes aware that a prospective adopter or a member of the prospective adopter's household falls within paragraph (2) or (4), the agency must notify the prospective adopter as soon as possible in writing that they cannot be considered suitable to adopt a child.

(**a**) 1997 c. 50. Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15) and amended by: section 63(1) of, and paragraph 14(1) and (3) of Schedule 9 to, the Safeguarding and Vulnerable Groups Act 2006 (c.47) ('the 2006 Act'); section 378(1) of, and paragraph 149 of Schedule 16 to, the Armed Forces Act 2006 (c.52); sections 79(1) and 80 of the Protection of Vulnerable Groups (Scotland) Act 2007 (2007 asp. 14); sections 97(2) and 112(2) of, and part 8 of Schedule 8 to, the Policing and Crime Act 2009 (c. 26), by sections 79(2)(b), 80(1)(a) to (d), 82(3)(a) and (b), 115(1) and (2) of the Protection of Freedoms Act 2012 (c.9) ('the 2012 Act'); and by S.I. 2009/203, 2010/1146 and 2012/3006. Section 113BA(2) was inserted by section 63(1) of, and paragraph 14(1) and (4) of Schedule 9 to, the 2006 Act and amended by: section 81(2) and (3)(h) of the Policing and Crime Act 2009; section 170(2) of the Education and Inspections Act 2006 (c.40); and section 169 of, and paragraph 12(a) and (b) of Schedule 1 to, the Education and Skills Act 2008 (c.25) and section 115(1) and (2) of the 2012 Act.

(**b**) 1979 c. 2.

(**c**) 1876 c. 36. Section 42 was amended by Part 9 of Schedule 1 to the Statute Law (Repeals) Act 1993 (c.50), and paragraph 1 of Schedule 2 to the Statute Law (Repeals) Act 2008 (c.12) and by other provisions which are not relevant to these Regulations.

(**d**) 2000 c. 43. Section 26 is repealed by Schedule 10 of the 2006 Act on a date to be appointed.

(**e**) 2003 c. 42.

Other pre-assessment information

26. The adoption agency must—

(a) obtain the information about the prospective adopter which is specified in Part 1 of Schedule 4;

(b) obtain a written report from a registered medical practitioner about the health of the prospective adopter following a full examination which must include the matters specified in Part 2 of Schedule 4 unless the agency has received advice from its medical adviser that such an examination and report is unnecessary;

(c) obtain a written report of each of the interviews with the persons nominated by the prospective adopter to provide personal references for the prospective adopter;

(d) where the adoption agency considers it necessary, obtain a personal reference from the prospective adopter's former spouse, civil partner or partner; and

(e) where it is not the local authority in whose area the prospective adopter has their home ascertain whether the local authority in whose area the prospective adopter has their home have any information about the prospective adopter which may be relevant to an assessment of the prospective adopter's suitability to adopt and if so obtain from that authority a written report setting out that information.

Pre-assessment decision

27.—(1) The adoption agency must, taking into account the information obtained under regulations 25 and 26, decide whether—

(a) the prospective adopter may be suitable to adopt a child; or

(b) that the prospective adopter is not suitable to adopt a child.

(2) Subject to paragraph (3), the agency must make its decision under paragraph (1) within a period of two months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process in accordance with regulation 21.

(3) The adoption agency may delay making the decision under paragraph (1)—

(a) where it is satisfied there are good reasons because, for example, there has been a delay in obtaining information about the prospective adopter; or

(b) upon the request of the prospective adopter.

(4) Where the adoption agency decides that the prospective adopter may be suitable to adopt a child the agency must—

(a) as soon as practicable, notify in writing the prospective adopter of its decision; and

(b) explain to the prospective adopter that they must notify the adoption agency that they wish to continue with the assessment process within six months of the date on which the notification is given.

(5) Where the adoption agency decides that the prospective adopter is not suitable to adopt a child the agency must as soon as practicable after making the decision notify the prospective adopter in writing of its decision together with reasons for its decision.

Stage 2 – the assessment decision

Stage 2 assessment

28.—(1) Regulations 28 to 30G apply where the prospective adopter notifies the adoption agency that they wish to continue with the assessment process within six months from the date on which the agency notified the prospective adopter that they may be suitable to adopt under regulation 27(4).

(2) Where the prospective adopter notifies the adoption agency that they wish to continue with the assessment process more than six months from the date on which the agency

notified the prospective adopter that they may be suitable to adopt under regulation 27(4), the agency must notify the prospective adopter in writing that the prospective adopter cannot proceed with the assessment process.

Prospective adopter assessment plan

29. The adoption agency must prepare a written plan in consultation with the prospective adopter ("the prospective adopter assessment plan") which includes the following matters—

(a) the procedure for assessing the prospective adopter's suitability to adopt a child;

(b) any applicable timescales;

(c) the arrangements for the prospective adopter to receive any additional counselling or preparation for adoption;

(d) details of any training that the prospective adopter has agreed to undertake;

(e) information about the role of the prospective adopter in the assessment process;

(f) information about the process for submitting representations or applying to the Secretary of State for a review under regulation 30B(5)(c); and

(g) any other matters which the agency considers relevant.

Prospective adopter's report

30.—(1) The adoption agency must obtain the information about the prospective adopter which is specified in Part 3 of Schedule 4.

(2) The adoption agency must prepare a written report ("the prospective adopter's report") which includes—

(a) the information about the prospective adopter and the prospective adopter's family which is specified in Parts 1 and 3 of Schedule 4;

(b) a summary, written by the agency's medical adviser, of the state of health of the prospective adopter;

(c) any relevant information obtained by the agency under regulation 26(e);

(d) any observations of the agency on the matters referred to in regulations 24 and 25;

(e) the agency's assessment of the prospective adopter's suitability to adopt; and

(f) any other information which the agency considers relevant.

(3) In a section 83 case, the prospective adopter's report must also include—

(a) the name of the country from which the prospective adopter wishes to adopt a child ("country of origin");

(b) confirmation that the prospective adopter meets the eligibility requirements to adopt from the country of origin;

(c) any additional information obtained as a consequence of the requirements of the country of origin; and

(d) the agency's assessment of the prospective adopter's suitability to adopt a child who is habitually resident outside the British Islands.

(4) Where the adoption agency receives information under paragraph (1) or other information in relation to the assessment of the prospective adopter and is of the opinion that the prospective adopter is unlikely to be considered suitable to adopt a child, it may prepare the prospective adopter's report under paragraph (2) notwithstanding that the agency may not have received all the information about the prospective adopter which may be required by this regulation.

(5) The adoption agency must—

(a) notify the prospective adopter that the prospective adopter's application is to be referred to the adoption panel;

(b) give the prospective adopter a copy of the prospective adopter's report;

(c) invite the prospective adopter to send any observations in writing to the agency within 5 working days, beginning with the date on which the notification is sent; and

(d) explain to the prospective adopter that the adoption agency may, in exceptional circumstances, extend the timescale referred to in paragraph (c) above.

(6) At the end of the 5 working days referred to in paragraph (5)(c) (or, where that timescale is extended by the adoption agency, as soon as possible after the prospective adopter's observations are received) the adoption agency must send—

(a) the prospective adopter's report and the prospective adopter's observations;

(b) the written reports and references referred to in regulation 26(b) to (e) but in the case of reports obtained in accordance with regulation 26(b), only if the agency's medical adviser advises it to do so; and

(c) any other relevant information obtained by the agency,

to the adoption panel.

(7) The adoption agency must obtain, so far as is reasonably practicable, any other relevant information which may be required by the adoption panel and send that information to the panel.

Function of the adoption panel

30A.—(1) Subject to paragraphs (2) and (3), the adoption panel must consider the case of the prospective adopter referred to it by the adoption agency and make a recommendation to the agency as to whether the prospective adopter is suitable to adopt a child.

(2) In considering what recommendation to make the adoption panel—

(a) must consider and take into account all the information and reports passed to it in accordance with regulation 30;

(b) may request the adoption agency to obtain any other relevant information which the panel considers necessary; and

(c) may obtain legal advice as it considers necessary in relation to the case.

(3) In relation to the case of a prospective adopter in respect of whom a report has been prepared in accordance with regulation 30(4), 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 30(2); or

(b) recommend that the prospective adopter is not suitable to adopt a child.

(4) Where the adoption panel makes a recommendation to the adoption agency that the prospective adopter is suitable to adopt a child, the panel may consider and give advice to the agency about the number of children the prospective adopter may be suitable to adopt, their age range, sex and likely needs.

(5) Before making any recommendation, the adoption panel must invite the prospective adopter to attend a meeting of the panel.

Adoption agency decision and notification

30B.—(1) Subject to paragraph (2), the adoption agency must decide whether the prospective adopter is suitable to adopt a child within four months of the date on which the agency received the prospective adopter's notification that they wished to proceed with the assessment process.

(2) The adoption agency may delay making the decision under paragraph (1)—

(a) in a case where the adoption agency considers there are exceptional circumstances which mean it cannot make the decision within that time, or

(b) upon the request of the prospective adopter.

(3) No member of the adoption panel may take part in any decision made by the adoption agency under paragraph (1).

(4) Where the adoption agency decides to approve the prospective adopter as suitable to adopt a child, it must notify the prospective adopter in writing of its decision.

(5) Where the adoption agency considers that the prospective adopter is not suitable to adopt a child, it must—

(a) notify the prospective adopter in writing that it proposes not to approve the prospective adopter as suitable to adopt a child ("qualifying determination");

(b) send with that notification its reasons together with a copy of the recommendation of the adoption panel if that recommendation is different; and

(c) advise the prospective adopter that within 40 working days beginning with the date on which the notification was sent the prospective adopter may—

(i) submit any representations the prospective adopter wishes to make to the agency; or

(ii) apply to the Secretary of State for a review by an independent review panel of the qualifying determination.

(6) If, within the period of 40 working days referred to in paragraph (5)(c), the prospective adopter has not made any representations or applied to the Secretary of State for a review by an independent review panel, the adoption agency must proceed to make its decision and notify the prospective adopter in writing of its decision together with reasons for that decision.

(7) If, within the period of 40 working days referred to in paragraph (5)(c), the adoption agency receives further representations from the prospective adopter, it may refer the case together with all relevant information to the adoption panel for further consideration.

(8) The adoption panel must consider any case referred to it under paragraph (7) and make a fresh recommendation to the adoption agency as to whether the prospective adopter is suitable to adopt a child.

(9) The adoption agency must make a decision on the case but—

(a) if the case has been referred to the adoption panel under paragraph (7), the agency must make the decision only after taking into account the recommendations of the adoption panel made under both paragraph (8) and regulation 30A; or

(b) if the prospective adopter has applied to the Secretary of State for a review by an independent review panel of the qualifying determination, the agency must make the decision only after taking into account the recommendation of the independent review panel and the recommendation of the adoption panel made under regulation 30A.

(10) As soon as possible after making its decision under paragraph (9), the adoption agency must notify the prospective adopter in writing of its decision stating its reasons for that decision if they do not consider the prospective adopter suitable to adopt a child, and of the adoption panel's recommendation under paragraph (8), if this is different from the agency's decision.

(11) In a case where an independent review panel has made a recommendation, the adoption agency must send to the Secretary of State a copy of the notification referred to in paragraph (10).

Information to be sent to the independent review panel

30C.—(1) If the adoption agency receives notification from the Secretary of State that a prospective adopter has applied for a review by an independent review panel of the qualifying determination, the agency must, within 10 working days of receipt of that notification, send to the Secretary of State the information specified in paragraph (2).

(2) The following information is specified for the purposes of paragraph (1)—

(a) all of the documents and information which were passed to the adoption panel in accordance with regulation 30;

(b) any relevant information in relation to the prospective adopter which was obtained by the agency after the date on which the documents and information referred to in sub-paragraph (a) were passed to the adoption panel; and

(c) the documents referred to in regulation 30B(5)(a) and (b).

Review and termination of approval

30D.—(1) The adoption agency must review the approval of each prospective adopter in accordance with this regulation, unless—

(a) in a section 83 case, the prospective adopter has visited the child in the country in which the child is habitually resident and has confirmed in writing that they wish to proceed with the adoption; and

(b) in any other case, a child is placed for adoption with the prospective adopter or the agency is considering placing a child with the prospective adopter in accordance with regulations 31 to 33.

(2) A review must take place whenever the adoption agency considers it necessary but otherwise not more than one year after approval and thereafter at intervals of not more than one year.

(3) When undertaking such a review the adoption agency must—

(a) make such enquiries and obtain such information as it considers necessary in order to review whether the prospective adopter continues to be suitable to adopt a child; and

(b) seek and take into account the views of the prospective adopter.

(4) If, at the conclusion of the review, the adoption agency considers that the prospective adopter may no longer be suitable to adopt a child, it must—

(a) prepare a written report ("the prospective adopter's review report") which includes the agency's reasons;

(b) notify the prospective adopter that the case is to be referred to the adoption panel; and

(c) give the prospective adopter a copy of the report inviting the prospective adopter to send any observations to the agency within 10 working days beginning with the date on which that report is given to the prospective adopter.

(5) At the end of the period of 10 working days referred to in paragraph (4)(c) (or earlier if the prospective adopter's comments are received before that period has expired), the adoption agency must send the prospective adopter's review report together with the prospective adopter's observations to the adoption panel.

(6) The adoption agency must obtain, so far as is reasonably practicable, any other relevant information which may be required by the adoption panel and send that information to the panel.

(7) The adoption panel must consider the prospective adopter's review report, the prospective adopter's observations and any other information passed to it by the adoption agency and make a recommendation to the agency as to whether the prospective adopter continues to be suitable to adopt a child.

(8) The adoption agency must make a decision as to whether the prospective adopter continues to be suitable to adopt a child and regulation 30B(2) to (11) apply in relation to that decision by the agency.

Duties of the adoption agency in a section 83 case

30E. Where the adoption agency decides in a section 83 case to approve a prospective adopter as suitable to adopt a child, the agency must send the Secretary of State—

(a) written confirmation of the decision and any recommendation the agency may make in relation to the number of children the prospective adopter may be suitable to adopt, their age range, sex and likely needs;

(b) all the documents and information which were passed to the adoption panel in accordance with regulation 30;

(c) the record of the proceedings of the adoption panel, its recommendation and the reasons for its recommendation;

(d) if the prospective adopter applied to the Secretary of State for a review by an independent review panel of a qualifying determination, the record of the proceedings of that panel, its recommendation and the reasons for its recommendation; and

(e) any other information relating to the case which the Secretary of State or the relevant foreign authority may require.

Application of Part 4 with modifications to specified persons

30F.—(1) This paragraph applies where the adoption agency is satisfied that the prospective adopter—

(a) is an approved foster parent; or

(b) has, at any time, adopted a child—

(i) in England and Wales, after having been assessed as suitable to adopt in accordance with these Regulations or corresponding Welsh provision; or

(ii) after having been assessed as suitable to adopt in accordance with the Adoptions with a Foreign Element Regulations 2005(**a**) ("the 2005 Regulations").

(2) "Corresponding Welsh provision" for the purposes of this regulation means in relation to a Part or a regulation of these Regulations the provision of regulations made by the Assembly under section 9 of the Act which corresponds to that Part or regulation.

(3) Where paragraph (1) applies Part 4 has effect subject to the modifications set out in Schedule 4A.

(4) Where the prospective adopter is an approved foster parent and consents, the adoption agency may request access to any relevant records compiled in relation to that approval by the fostering service provider.

(5) In this regulation "approved foster parent" means a person who is approved as a foster parent in accordance with the Fostering Services (England) Regulations 2011(**b**) but does not include a person with whom a child is placed under regulation 24 or 25A of the Care Planning, Placement and Case Review (England) Regulations 2010(**c**).

Referral to the Adoption Register – prospective adopters

30G.—(1) Where paragraph (2) applies the agency must give the information about the prospective adopter requested by the organisation which maintains the Adoption Register to that organisation for entry in the Register as soon as possible and in any event no later than three months after the determination referred to in paragraph (2)(a).

(2) Other than in a section 83 case, this paragraph applies where—

(**a**) S.I. 2005/392, amended by S.I. 2005/3482, S.I. 2009/2563, S.I. 2010/1172 and S.I. 2012/1410 .
(**b**) S.I. 2011/581, amended by S.I. 2013/984.
(**c**) S.I. 2010/959. Regulation 24 was amended by S.I. 2011/58. Regulation 25A was inserted by S.I. 2013/984.

(a) an adoption agency has, in accordance with regulation 30B, determined that a prospective adopter is suitable to adopt a child;

(b) the agency has not identified a particular child who it is considering placing with that prospective adopter; and

(c) the agency has obtained the consent of the prospective adopter.

Prospective adopter matching plan

30H. Except in a section 83 case, where an adoption agency has approved a prospective adopter as suitable to adopt a child in accordance with regulation 30B, the agency must prepare a written plan in consultation with the prospective adopter ("the prospective adopter matching plan") which includes—

(a) information about the duties of the adoption agency under Parts 5 and 6 of these Regulations;

(b) information about the role of the prospective adopter in identifying a child for whom they would be an appropriate adopter;

(c) information about the process for making a representation (including a complaint) under the 1989 Regulations; and

(d) any other matters that the agency consider relevant.".

6. In regulation 32(5) (function of adoption panel in relation to proposed placement) for the words "regulation 27" substitute "regulation 30B".

7. After regulation 42(1)(h) (access to case records and disclosure of information) insert—

"(i) to a fostering service provider within fifteen working days of a request under regulation 26(1A)(f) of the Fostering Services (England) Regulations 2011(**a**). ".

8. In Part 1 of Schedule 3 (offences specified for the purposes of regulation 23(3)(b))—

(a) in the heading, for the words "regulation 23(3)(b)" substitute "regulation 25(3)(b)";

(b) for paragraphs 2 and 3 (offences in Scotland) substitute—

"**2.** An offence under section 1 (rape) and section 18 (rape of a young child) of the Sexual Offences (Scotland) Act 2009(**b**).

3. An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995(**c**) except, in a case where the offender was under the age of 20 at the time the offence was committed.".

(c) for paragraphs 7 and 8 (offences in Northern Ireland) substitute—

"**7.** An offence under Article 5 (rape) and Article 12 (rape of a child under 13) of the Sexual Offences (Northern Ireland) Order 2008(**d**).

8. An offence specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968(**e**), except in the case where the offender was under the age of 20 at the time the offence was committed."; and

(d) omit paragraph 10.

9. For Schedule 4 substitute—

(**a**) S.I. 2011/581. Regulation 26(1A)(f) was inserted by S.I. 2013/984.
(**b**) 2009 (asp.9).
(**c**) 1995 (c.46).
(**d**) 2008/1769 (N.I. 2).
(**e**) 1968 c.34.

“SCHEDULE 4

PART 1

Regulation 26(a)

Information to be provided during Stage 1

Information about the prospective adopter

1. Name, sex, date and place of birth and address including the local authority area.

2. If the prospective adopter is married or has formed a civil partnership and is applying alone for an assessment of their suitability to adopt, the reasons for this.

3. Details of any previous family court proceedings in which the prospective adopter has been involved.

4. Names and addresses of three referees who will give personal references on the prospective adopter, not more than one of whom may be a relative.

5. Name and address of the prospective adopter’s registered medical practitioner.

6. If the prospective adopter—

(a) is married, the date and place of the marriage,

(b) has formed a civil partnership, the date and place of registration of that partnership, or

(c) has a partner, details of that relationship.

7. Details of any previous marriage, civil partnership or relationship.

8. Whether the prospective adopter is domiciled or habitually resident in a part of the British Islands and if habitually resident for how long they have been habitually resident.

Information about the home etc of the prospective adopter

9. Details of other members of the prospective adopter’s household (including any children of the prospective adopter whether or not resident in the household).

PART 2

Regulation 26(b)

Report on the Health of the Prospective Adopter

1. Name, date of birth, sex, weight and height.

2. A family health history of the parents, any brothers and sisters and the children of the prospective adopter, with details of any serious physical or mental illness and any hereditary disease or disorder.

3. Infertility or reasons for deciding not to have children (if applicable).

4. Past health history, including details of any serious physical or mental illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given.

5. Obstetric history (if applicable).

6. Details of any present illness, including treatment and prognosis.

7. Details of any consumption of alcohol that may give cause for concern or whether the prospective adopter smokes or uses habit-forming drugs.

8. Any other relevant information which the adoption agency considers may assist the adoption panel and the adoption agency.

PART 3

Regulation 30(1)

Information to be provided during stage 2

Information about the prospective adopter

1. A photograph and physical description.

2. Racial origin and cultural and linguistic background.

3. Religious persuasion.

4. Relationship (if any) to the child.

5. A description of the prospective adopter's personality and interests.

6. A family tree with details of the prospective adopter, the prospective adopter's siblings and any children of the prospective adopter, with their ages (or ages at death).

7. A chronology of the prospective adopter from birth.

8. The observations of the prospective adopter about their own experience of being parented and how this has influenced them.

9. Details of any experience the prospective adopter has had of caring for children (including as a parent, step-parent, foster parent, child minder or prospective adopter) and an assessment of the prospective adopter's ability in this respect.

10. Any other information which indicates how the prospective adopter and anybody else living in the prospective adopter's household is likely to relate to a child placed for adoption with the prospective adopter.

Wider Family

11. A description of the wider family of the prospective adopter and their role and importance to the prospective adopter and their likely role and importance to a child placed for adoption with the prospective adopter.

Information about the home etc of the prospective adopter

12. Information about the prospective adopter's home and the neighbourhood in which the prospective adopter lives.

13. Information about the local community of the prospective adopter, including the degree of the family's integration with its peer groups, friendships and social networks.

Education and employment

14. Details of the prospective adopter's educational history and attainments and the prospective adopter's views about how this has influenced them.

15. Details of the prospective adopter's employment history and the observations of the prospective adopter about how this has influenced them.

16. The current employment of the prospective adopter and the prospective adopter's views about achieving a balance between employment and child care.

Income

17. Details of the prospective adopter's income and expenditure.

Other information

18. Information about the prospective adopter's capacity to—

(a) provide for a child's needs, particularly emotional and behavioural development needs;

(b) share a child's history and associated emotional issues; and

(c) understand and support a child through possible feelings of loss and trauma.

19. The prospective adopter's—

(a) reasons for wishing to adopt a child;

(b) views and feelings about adoption and its significance;

(c) views about their parenting capacity;

(d) views about parental responsibility and what it means;

(e) views about a suitable home environment for a child;

(f) views about the importance and value of education;

(g) views and feelings about the importance of a child's religious and cultural upbringing; and

(h) views and feelings about contact.

20. The views of other members of the prospective adopter's household and wider family in relation to adoption.

21. Any other relevant information which might assist the adoption panel or the adoption agency.

SCHEDULE 4A

Regulation 30F(3)

Modifications to Part 4

1. Regulation 22 does not apply.

2. Regulations 24, 25 and 26 only apply where an adoption agency considers it necessary.

3. Regulations 27 and 28 do not apply.

4. Regulation 30 applies as if—

(a) paragraphs (1) and (4) were omitted;

(b) for paragraph (2) there were substituted—

"(2) The adoption agency must prepare a written report ("the prospective adopter's report") which includes—

(a) where applicable, a summary, written by the agency's medical adviser, of the state of the health of the prospective adopter;

(b) where applicable, any observations of the agency on the matters referred to in regulation 25;

(c) where applicable, any relevant information obtained by the agency under regulation 26;

(d) the agency's assessment of the prospective adopter's suitability to adopt; and

(e) any other information which the agency considers relevant."; and

(c) the words "where applicable" were inserted at the beginning of paragraph (6)(b).

5. Regulation 30A(3) does not apply.

6. Regulation 30B applies as if for paragraph (1) there were substituted—

"(1) The adoption agency must decide whether the prospective adopter is suitable to adopt a child within four months of the date on which the agency received the prospective adopter's notification that they wished to proceed with the pre-assessment process."".

Amendments to other Regulations

10.—(1) Subject to paragraph (2), the amendments to other Regulations set out in the Schedule have effect.

(2) Notwithstanding the amendments made by paragraph 2(6) of the Schedule, regulation 15 of the Adoptions with a Foreign Element Regulations 2005(**a**) continues to apply in relation to Wales as if these Regulations had not been made.

Transitional provision

11. In a case where an adoption agency has started to assess the suitability of a prospective adopter in accordance with Part 4 of the Adoption Agencies Regulations 2005, prior to the coming into force of these Regulations, the adoption agency must continue that assessment as if these Regulations had not been made.

Edward Timpson
Parliamentary Under Secretary of State
Department for Education

30th April 2013

SCHEDULE

Regulation 10

Amendments to Other Regulations

Adoption Support Services Regulations 2005

1. In regulation 11(c) of the Adoption Support Services Regulations 2005(**b**) after the words "income support" insert the words ",employment and support allowance,".

Adoptions with a Foreign Element Regulations 2005

2.—(1) The Adoptions with a Foreign Element Regulations 2005 are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the definition of "prospective adopter's case record" for the words "regulation 22(1)" substitute "regulation 23(1)"; and

(**a**) S.I. 2005/392, amended by S.I. 2005/3482, S.I. 2009/2563, S.I. 2010/1172 and S.I. 2012/1410.
(**b**) S.I 2005/691.

(b) in the definition of "prospective adopter's report" for the words "regulation 25(5)" substitute "regulation 30(2)".

(3) In regulation 4(2)(b)(iii) (conditions applicable in respect of a child brought into the United Kingdom) for the words "meet with the adoption agency to discuss the" substitute "discuss with the adoption agency the".

(4) In regulation 13 (requirements applicable in respect of eligibility and suitability)—

(a) for paragraphs (1)(a) and (b) substitute—

"(1) (a) in the case of an adoption agency in Wales, apply in writing to the adoption agency for a determination of eligibility and an assessment of their suitability to adopt, and give the agency any information it may require for the purposes of the assessment, or

(b) in the case of an adoption agency in England, notify the agency that they want to adopt a child, and give the agency any information it may require for the purposes of the pre-assessment process set out in Part 4 of the Agencies Regulations.".

(b) for the beginning of paragraph 2(1) substitute—

"**2.**—(1) An adoption agency in Wales may not consider an application under paragraph (1)(a), and an adoption agency in England may not proceed with the pre-assessment process referred to in paragraph (1)(b), unless at the date of that application or notification (as the case may be)—".

(5) In regulation 14(1) (counselling and information) for the words "regulation 21(1)(a)" substitute "regulation 24(1)(a)".

(6) In regulation 15 (procedure in respect of carrying out an assessment)—

(a) for paragraph (1) and (2) substitute—

"(1) Where the adoption agency is satisfied that that the requirements in regulation 14 have been met the agency must consider the suitability of the prospective adopter in accordance with Part 4 of the Agencies Regulations.".

(b) in paragraph (5) for the words "regulations 25(5) and 26(2)" substitute "regulations 30(2) and 30A(2)".

(7) In regulation 16 (adoption agency decision and notification) for the words "regulation 27" substitute "regulation 30B".

(8) In regulation 17 (review and termination of approval) for the words "regulation 29" substitute "regulation 30D".

(9) In regulation 18 (procedure following decision as to suitability to adopt)—

(a) in paragraph (1)(b) for the words "regulation 23" substitute "regulation 25";

(b) in paragraph (1)(c) for the words "regulation 25(9)" substitute "regulations 30(6) or (7)"; and

(c) in paragraph (2)(a) for the words "regulation 25" substitute "regulation 30".

(10) In regulation 19(2)(b) (procedure following receipt of the Article 16 information from the CA of the state of origin) for the words "meet with him to discuss" substitute "discuss with the prospective adopter".

(11) In regulation 20(2) (procedure where proposed adoption is not to proceed) for the words "regulation 29" substitute "regulation 30D".

Restriction on the Preparation of Adoption Reports Regulations 2005

3. In regulation 4(b) of the Restriction on the Preparation of Adoption Reports Regulations 2005(**a**) for the words "regulation 25(5)" substitute "regulation 30(2)".

(**a**) S.I. 2005/1711.

Suitability of Adopters Regulations 2005

4.—(1) The Suitability of Adopters Regulations 2005(**a**) are amended as follows.

(2) In regulation 3 (making reports in respect of the suitability to adopt a child)—

(a) for the words "regulations 25(5)" substitute "regulations 30(2)";

(b) for the words "and 29(4)" substitute "and 30D(4)";

(c) in sub-paragraph (a)(i) for the words "regulation 21" substitute "regulation 24(1)";

(d) in sub-paragraph (b) for the words "regulation 24" substitute "regulation 24(1)(f)";

(e) in sub-paragraph (c) for the words "regulation 23(1)(a) and (b)" substitute "regulation 25(1)";

(f) for sub-paragraph (d) substitute—

"(d) any information or reports obtained under regulation 26;"; and

(g) omit sub-paragraph (f).

(3) In regulation 4(1) (determining the suitability to adopt a child)—

(a) for the words "regulation 27" substitute "regulation 30B";

(b) in sub-paragraph (a) for the words "regulation 25(5)" substitute "regulation 30(2)";

(c) in sub-paragraph (b) for the words "regulation 25(3)(a)" substitute "regulation 26(b)";

(d) in sub-paragraph (c) for the words "regulation 25(3)(b)" substitute "regulation 26(c)";

(e) in sub-paragraph (d) for the words "regulation 26(1)" substitute "regulation 30A(1)"; and

(f) in sub-paragraph (e) for the words "regulation 26(2)(b)" substitute "regulation 30A(2)(b)".

(4) In regulation 5 (cases in which a person is unlikely to be suitable to adopt a child)—

(a) for the words "regulation 25(7)" substitute "regulation 30(4)"; and

(b) for the words "regulation 25(2), (3) or (4)" substitute "regulation 26".

Local Authority (Adoption) (Miscellaneous Provisions) Regulations 2005

5. In regulation 5 (fees for facilities provided in connection with adoption with a foreign element) of the Local Authority (Adoption) (Miscellaneous Provisions) Regulations 2005(**b**)—

(1) In sub-paragraph (2)(b) for the words "regulation 27" substitute "regulation 30B".

(2) In sub-paragraph (4)(a) for the words "regulation 21 of those Regulations (requirement to provide counselling and information)" substitute "regulation 24(1)(a) to (d) of those Regulations (requirement to provide counselling, information and preparation for adoption)".

Children Act 1989 Representations Procedure (England) Regulations 2006

6. In regulation 4(f) of the Children Act 1989 Representations Procedure (England) Regulations 2006(**c**) after the words "adoption for a child)," insert "Part 4 (duties of adoption agency in respect of a prospective adopter) in so far as those functions relate to a decision under regulation 27 (pre-assessment decision) that a prospective adopter is not suitable to adopt a child,".

Independent Review of Determinations (Adoption and Fostering) Regulations 2009

7.—(1) The Independent Review of Determinations (Adoption and Fostering) Regulations 2009(**d**) are amended as follows.

(**a**) S.I. 2005/1712.
(**b**) S.I. 2005/3390.
(**c**) S.I. 2006/1738.
(**d**) S.I. 2009/395, amended by S.I. 2011/589.

(2) In regulation 2 (interpretation)—

(a) omit the definition of "adoption panel";

(b) omit the definition of "fostering panel";

(c) for the definition of "panel" substitute—

""panel", except in regulation 10(1)(a), has the meaning given in regulation 5(1);"; and

(d) in the definition of "prospective adopter's report" for the words "regulation 25" substitute "regulation 30".

(3) In regulation 3 (qualifying determination for the purposes of section 12(2) of the 2002 Act) for the words "regulation 27(4)" substitute "regulation 30B(5)".

(4) In regulation 5(1) omit the words "in accordance with regulation 6, 7, or 8, as the case may be,".

(5) In regulation 10(2)—

(a) before sub-paragraph (a) insert—

"(za) "adoption panel" means a panel constituted in accordance with regulation 3 of the AAR;";

(b) after sub-paragraph (a) insert—

"(b) "fostering panel" means a panel constituted in accordance with regulation 23 of the FSR.".

(6) In regulation 11 (functions of panel constituted to review an adoption suitability determination)—

(a) In paragraph 2—

(i) for the words "A panel constituted in accordance with regulation 6" substitute "The panel"; and

(ii) in paragraph (2)(b)(i) for the words "regulation 25(5)" substitute "regulation 30(2)";

(b) in paragraph (3) for the words "regulation 25" substitute "regulation 30";

(c) in paragraph (4)—

(i) for the words "regulation 25(7)" substitute "regulation 30(4)"; and

(ii) for the words "regulation 25" substitute "regulation 30"; and

(d) in paragraph (5)(a) for the words "regulation 28" substitute "regulation 30C".

(7) In regulation 12(2) for the words "A panel constituted in accordance with regulation 7" substitute "The panel".

(8) In regulation 13(2) for the words "A panel constituted in accordance with regulation 8" substitute "The panel".

(9) In regulation 18(c) omit the words "constituted in accordance with regulation 6, 7 or 8".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1st July 2013.

These Regulations amend the Adoption Agencies Regulations 2005 ("the 2005 Regulations") which make provision relating to the exercise by adoption agencies (local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002 ("the 2002 Act").

New regulation 19A requires adoption agencies to refer (within the required timescale) details of children for whom the decision has been made that they should be placed for adoption to the Adoption Register.

The Regulations substitute a new Part 4 (regulations 21 to 30G) to provide for a two stage approval process for prospective adopters (the pre-assessment process – stage 1 and the assessment decision – stage 2). Regulations 21 to 27 (stage 1) apply where a person has notified an adoption agency that they want to adopt a child and the agency has notified that person that it has decided to proceed with the pre-assessment process in respect of them. Regulations 28 to 30G (stage 2) apply where, following the adoption agency's decision that the prospective adopter may be suitable to adopt, the prospective adopter has notified the adoption agency within six months of that decision that they wish to proceed to stage 2 of the approval process.

New regulation 22 requires the adoption agency to prepare a written plan in consultation with the prospective adopter ("the prospective adopter stage one plan") which is to include information about the role of the adoption agency and the prospective adopter in the stage one process.

New regulation 26 sets out the pre-assessment information that an adoption agency must obtain and new regulation 27 provides that an adoption agency must decide in light of that information whether the prospective adopter may be suitable to adopt a child. That decision must be made within two months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process in accordance with regulation 21 but the agency may delay making that decision where it is satisfied that there are good reasons for doing so or upon the request of the prospective adopter.

New regulation 29 requires the adoption agency to prepare a written plan in consultation with the prospective adopter ("the prospective adopter assessment plan") which is to include information about the procedure for assessing the prospective adopter's suitability to adopt a child.

New regulation 30B provides that an adoption agency must decide whether a prospective adopter is suitable to adopt within four months of the date on which the agency received the prospective adopter's notification that they wished to proceed with the assessment process. The agency may delay making that decision where the agency considers that there are exceptional circumstances which mean it cannot make that decision within that time or upon the request of the prospective adopter.

New regulation 30F and Schedule 4A provide that in certain cases Part 4 of the 2005 Regulations applies subject to the modifications set out in Schedule 4A. Those cases are where an adoption agency is satisfied that a prospective adopter is an approved foster parent or has, at any time, previously adopted a child in England or Wales or overseas (having been approved in accordance with the 2005 Regulations or the Adoption with a Foreign Element Regulations 2005 (or corresponding Welsh provision)). In those cases the adoption agency must decide whether the prospective adopter is suitable to adopt within four months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process in accordance with regulation 21.

New regulation 30G requires adoption agencies to refer (within the required timescale) details of approved prospective adopters to the Adoption Register.

New regulation 30H provides that, except in a section 83 case, an adoption agency must prepare a written plan in consultation with an approved prospective adopter ("prospective adopter matching plan") which is to include information about the duties of the agency in relation to placement and reviews.

The Regulations make other consequential amendments which are set out in the Schedule and include amendments to the Adoption with a Foreign Element Regulations 2005 and minor amendments to the Independent Review of Determinations (Adoption and Fostering) Regulations 2009 consequent on amendments made by the Adoption Agencies and Independent Review of Determinations (Amendment) Regulations 2011, which make provision for the review of certain determinations by adoption agencies and fostering service providers, to be carried out by an independent panel appointed by the Secretary of State.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk

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