STATUTORY INSTRUMENTS

2001 No. 1251

CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES

The Adoption of Children from Overseas Regulations 2001

Made - - - -	*29th March 2001*
Laid before Parliament	*29th March 2001*
Coming into force	*30th April 2001*

The Secretary of State for Health, in exercise of powers conferred on him by sections 9(2) and (3) and 56A(1) of the Adoption Act 1976**(a)**, after consultation with the National Assembly for Wales**(b)**, hereby makes the following Regulations:—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Adoption of Children from Overseas Regulations 2001 and shall come into force on 30th April 2001.

(2) This regulation and regulations 2 and 3 extend to England and Wales; regulation 4 extends to England only.

Interpretation

2. In these Regulations—

"the 1976 Act" means the Adoption Act 1976;

"the 1983 Regulations" means the Adoption Agencies Regulations 1983**(c)**;

"adoption panel" has the same meaning as in the 1983 Regulations;

"prospective adopter" means a person habitually resident in the British Islands who at any time brings into the United Kingdom for the purpose of adoption (other than adoption by a parent, guardian or relative) a child who is habitually resident outside those Islands.

Requirements applying to prospective adopters

3.—(1) The requirements which a prospective adopter must satisfy before bringing a child into the United Kingdom are those prescribed in paragraph (2).

(a) 1976 c.36. Section 56A was inserted by the Adoption (Intercountry Aspects) Act 1999 (c.18), section 14.

(b) By virtue of section 16(1) of the Adoption (Intercountry Aspects) Act 1999, any function of the Secretary of State under section 56A of the Adoption Act 1976 is exercisable only after consultation with the National Assembly for Wales. Functions of the Secretary of State under section 9 of the 1976 Act have been transferred to the National Assembly for Wales under S.I. 1999/672.

(c) S.I. 1983/1964, as amended by S.I. 1997/649 and 1997/2308.

(2) The requirements are that—

(a) the prospective adopter has applied to an adoption agency for assessment of his suitability to be an adoptive parent and has followed such procedure and provided such information to the agency as it may request in order to enable it to undertake such an assessment;

(b) an adoption agency has notified the prospective adopter in writing of a decision to approve him as suitable to be an adoptive parent; and

(c) the Secretary of State for Health has notified the prospective adopter in writing that he is prepared to issue a certificate confirming to the relevant overseas authority that the prospective adopter has been assessed and approved as suitable to be an adoptive parent and that the child will be authorised to reside permanently within the British Islands, if entry clearance is granted and an adoption order is made.

(3) A prospective adopter must also within the period of fourteen days beginning with the date on which he brings the child into the United Kingdom give notice to the local authority within whose area he has his home of—

(a) his intention to apply for an adoption order, in accordance with section 22 of the 1976 Act**(a)**; or

(b) his intention not to give the child a home.

(4) In this regulation—

"adoption agency"**(b)** includes an adoption agency within the meaning of section 1 of the Adoption (Scotland) Act 1978**(c)** and Article 3 of the Adoption (Northern Ireland) Order 1987;

"the relevant overseas authority" means a person or body performing functions in the country in which the child is habitually resident which correspond to the functions of an adoption agency;

"entry clearance" has the same meaning as in the Immigration Act 1971**(d)**.

Duties of an adoption agency and adoption panel functions in respect of a prospective adopter

4.—(1) This regulation applies to—

(a) a local authority to which a prospective adopter has applied for assessment in accordance with regulation 3(2)(a); and

(b) an approved adoption society which has agreed to assess a prospective adopter who has applied to it in accordance with that regulation.

(2) The adoption agency shall assess a prospective adopter in accordance with regulations 8 (adoption agency's duties in respect of a prospective adopter)**(e)** and 8A (criminal conviction of a prospective adopter)**(f)** of the 1983 Regulations.

(3) An adoption panel to which the case of a prospective adopter is referred shall consider the case and make a recommendation to the referring adoption agency as to whether the prospective adopter is suitable to be an adoptive parent, in accordance with regulation 10 (adoption panel functions)**(g)** of those Regulations.

(4) The adoption agency shall—

(a) make a decision as to the suitability of the prospective adopter to be an adoptive parent and notify him of its decision, in accordance with regulation 11A (adoption agency decisions and notifications—prospective adopters)**(h)** of the 1983 Regulations; and

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(a) Section 22 was amended by the Children Act 1989 (c.41), Schedule 10, Part I, paragraph 10.
(b) By virtue of section 1(4) of the Adoption Act 1976, "adoption agency" means a local authority or an approved adoption society.
(c) 1978 c.28.
(d) 1971 c.77.
(e) Regulation 8 was amended by S.I. 1997/649 and 1997/2308.
(f) Regulation 8A was inserted by S.I. 1997/2308.
(g) Regulation 10 was amended by S.I. 1997/649.
(h) Regulation 11A was inserted by S.I. 1997/649 and amended by S.I. 1997/2308.

(b) where the agency has decided to approve the prospective adopter as suitable to be an adoptive parent, notify the Secretary of State in writing of that decision and provide to him—

(i) all information considered by the adoption panel before making a recommendation to the agency as to whether the prospective adopter is suitable to be an adoptive parent; and

(ii) such other information relating to the prospective adopter's case as he may require.

Signed by authority of the Secretary of State for Health

John Hutton
Minister of State,
Department of Health

29th March 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements with which a person who is habitually resident in the British Islands must comply before and after bringing a child who is habitually resident outside those Islands into the United Kingdom for the purpose of adoption.

The prospective adopter is required to undergo assessment by an adoption agency, be approved as suitable to be an adoptive parent and have received notification from the Secretary of State that he is willing to issue a certificate confirming that the prospective adopter has been assessed and approved and that the child will be authorised to reside permanently in the British Islands if entry clearance is granted and an adoption order is made. The prospective adopter is required to notify his local authority of his intention to apply for an adoption order, or alternatively that he does not intend to give the child a home, within fourteen days after bringing the child into the United Kingdom.

The Regulations also specify the procedure to be followed by an adoption agency and adoption panel in relation to assessment and approval of a person wishing to adopt a child from overseas, and require the provision of certain information to the Secretary of State. These provisions apply to England only; similar provision is to be made in relation to Wales by the National Assembly for Wales.

Copies of a regulatory impact assessment in relation to these Regulations may be obtained from Adoption and Permanence Team, Room 101 Wellington House, 133–155 Waterloo Road, London SE1 8UG and at www.doh.gov.uk/adoption.

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