

ADOPTION AND CHILDREN ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Adoption

Chapter 2 – The Adoption Service

Section 16: Distribution of functions in relation to registered adoption societies

63. **Section 16** inserts a new section 36A into Part 2 of the Care Standards Act 2000. The new section 36A makes provision for the distribution of functions in relation to registered adoption societies. Paragraph 106 of Schedule 3 disapplies the requirement for separate branch registration in relation to registered adoption societies and branches of registered adoption societies will not therefore need to be separately registered.
64. The functions covered by section 36A are functions relating to voluntary adoption agencies conferred on the registration authority by or under Part 2 of the Care Standards Act 2000 (for example the registration and inspection functions) or under Chapter 2 of Part 1 of the Act (for example the function of the registration authority to receive a fee on notification of a change of ownership)(subsection (1)).
65. Subsections (2) to (5) have effect unless regulations made under subsection (6) make different provision. Subsection (2) provides that the functions of the registration authority are to be exercisable according to where the principal office of an agency is situated. If it is in England the registration authority is the National Care Standards Commission and the voluntary adoption agency will register with the Commission and if it is in Wales, the registration authority is the National Assembly for Wales and the voluntary adoption agency will register with the Assembly.
66. Under the Care Standards Act 2000 the registration of an agency may be subject to conditions. Subsection (3) provides that in so far as the functions relate to the imposition, variation or removal of conditions of registration they may only be exercised after consultation with the Assembly or, as the case may be, the Commission. However, if an agency has a branch in Wales, then the Commission must obtain the agreement of the Assembly to the imposition etc. of conditions and vice versa (subsection (4)).
67. Subsection (5) provides that the functions in relation to inspection are exercisable where the premises are in England by the Commission and where the premises are in Wales by the Assembly. This will enable the Commission to inspect branches of agencies which operate in England but are registered with the Assembly, and vice versa.
68. Subsection (6) enables the Secretary of State and the Assembly to make regulations jointly to provide for any function to which the section applies to be exercisable by the Commission instead of the Assembly or by the Assembly instead of the Commission. Regulations may also provide for the registration authorities to exercise a function concurrently or jointly or to require the agreement of, or consultation with, the other.