
STATUTORY INSTRUMENTS

1997 No. 2308

**The Children (Protection from Offenders)
(Miscellaneous Amendments) Regulations 1997**

Citation and commencement

1. These Regulations may be cited as the Children (Protection from Offenders) (Miscellaneous Amendments) Regulations 1997 and shall come into force on 17th October 1997.

Amendment of the Adoption Agencies Regulations 1983

2.—(1) The Adoption Agencies Regulations 1983(1) are amended in accordance with the following provisions of this regulation.

(2) In regulation 1 (interpretation), at the end of paragraph (3) insert—

““specified offence” means an offence specified in Schedule 2.”.

(3) In regulation 8 (adoption agency’s duties in respect of a prospective adopter), in paragraph (2)

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- (a) after “procedures referred to in paragraph (1)” insert “and subject to regulation 8A”;
 - (b) in sub-paragraph (a) after “by virtue of this regulation” insert “and regulation 8A”; and
 - (c) in sub-paragraph (h) after “within 28 days” insert “beginning with the date on which the notification was sent.”.

(4) After regulation 8 insert the following new regulation—

“Criminal convictions of a prospective adopter

8A.—(1) An adoption agency shall, so far as practicable, take steps to obtain information about any previous criminal convictions and any cautions given by a constable in respect of criminal offences which relate to a prospective adopter and other members of his household over the age of 18 when considering under regulation 8(1) whether a person may be suitable to be an adoptive parent.

(2) An adoption agency shall not consider a person to be suitable to be an adoptive parent or, as the case may be, shall consider a person no longer to be suitable, if he or any member of his household over the age of 18—

- (a) has been convicted of a specified offence; or
- (b) has been cautioned by a constable in respect of a specified offence which, at the time the caution was given, he admitted.

(3) The adoption agency shall notify a prospective adopter in writing as soon as possible after becoming aware that, by virtue of paragraph (2), he is not (or, as the case may be, is no longer) considered suitable to be an adoptive parent and the notification shall specify the conviction or, as the case may be, the caution in question.”

(5) In regulation 11A (adoption agency decisions and notifications— prospective adopters) in paragraph (4), at the beginning insert “Except in a case where paragraph (2) of regulation 8A applies,”.

(6) In regulation 12 (placement for adoption) in paragraph (2)(e) at the beginning insert “Subject to regulation 8A,”.

(7) In regulation 14 (confidentiality and preservation of court records), in paragraph (4)—

(a) after “paragraphs (2) and (3)” insert “is suitable to”; and

(b) for “etc” substitute “(together with any indices not part of the records)”.

(8) After regulation 17 insert the following new regulation—

“Local authority reports in non agency cases

17A. A local authority which is required by section 22(2) of the Act to investigate an application for an adoption order in respect of a child who was not placed with the applicant by an adoption agency shall, so far as practicable, take steps to obtain information about any previous criminal convictions and any cautions given by a constable in respect of criminal offences which relate to the applicant and other members of his household over the age of 18.”.

(9) After the Schedule insert as Schedule 2 the Schedule to these Regulations.

Amendment of the Foster Placement (Children) Regulations 1991

3.—(1) The Foster Placement (Children) Regulations 1991(2) are amended in accordance with the following provisions of this regulation.

(2) In regulation 1 (interpretation), at the end of paragraph (2) insert—

““specified offence” means an offence specified in Schedule 4”.

(3) In regulation 3 (approval of foster parents)—

(a) in paragraph (2), for “Subject to paragraph (3)” substitute “Subject to paragraphs (3), (4) and (4A)”;

(b) after paragraph (4) insert the following new paragraph—

“(4A) A person shall not be regarded as suitable to act as a foster parent if he or any member of his household over the age of 18—

(a) has been convicted of a specified offence; or

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

(4) In Schedule 1 (information as to prospective foster parent and other members of his household and family) for paragraph 9 substitute the following paragraph—

“**9.** Any previous criminal convictions and any cautions given by a constable in respect of criminal offences relating either to him or other member of his household over the age of 18.”.

(5) After Schedule 3 insert as Schedule 4 the Schedule to these Regulations.

Amendment of the Children’s Homes Regulations 1991

4.—(1) The Children’s Homes Regulations 1991(3) are amended in accordance with the following provisions of this regulation.

(2) S.I. 1991/910, amended by S.I. 1995/2015.

(3) S.I. 1991/1506, amended by S.I. 1993/3069, S.I. 1994/1511 and S.I. 1996/692.

(2) In regulation 5 (staffing of children’s homes), after paragraph (2) insert the following paragraph—

“(3) Before employing or engaging the services of any person in a children’s home in a position which involves substantial and unsupervised access to children on a sustained or regular basis, the responsible authority shall, so far as practicable, take steps to obtain information about his previous criminal convictions (if any) and any cautions given by a constable in respect of criminal offences.”.

Amendment of the Disqualification for Caring for Children Regulations 1991

5.—(1) The Disqualification for Caring for Children Regulations 1991⁽⁴⁾ are amended in accordance with the following provision of this regulation.

(2) In the Schedule (offences which disqualify persons from private fostering and registering under section 71 of the Children Act⁽⁵⁾), for paragraph 1 substitute the offences listed in the Schedule to these Regulations save that the exemptions specified in paragraphs 2(a) and 13(a) in the Schedule to these Regulations (exemptions for common assault and battery) are omitted.

Transitional provisions in relation to prospective adopters

6. Not more than 12 weeks after the date on which these Regulations come into force, an adoption agency shall, so far as practicable, take steps to obtain information about—

- (a) any previous criminal convictions of each person with whom a child is currently placed for adoption or with whom it proposes to place a child for adoption (“the prospective adopter”) and each member of those persons' households over the age of 18; and
- (b) any caution given by a constable in respect of criminal offences to any person mentioned in paragraph (a),

unless that information was obtained by the agency, or another adoption agency, at the time when that agency was considering whether the prospective adopter was suitable to be an adoptive parent in accordance with regulation 8 of the Adoption Agencies Regulations 1983⁽⁶⁾.

⁽⁴⁾ S.I. 1991/2094.

⁽⁵⁾ 1989 c. 41.

⁽⁶⁾ S.I. 1983/1964 amended by S.I. 1997/649.