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STATUTORY INSTRUMENTS

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**2005 No. 389**

**CHILDREN AND YOUNG PERSONS,  
ENGLAND SOCIAL CARE, ENGLAND**

**The Adoption Agencies Regulations 2005**

*Made* - - - - *23rd February 2005*  
*Laid before Parliament* *2nd March 2005*  
*Coming into force* - - *30th December 2005*

The Secretary of State for Education and Skills, in exercise of the powers conferred on her by sections 26(1) to (2B), 59(4)(a) and (5) and 104(4) of the Children Act 1989 <sup>M1</sup> and sections 9(1)(a), 11(1)(b), 27(3), 53(1) to (3), 54, 140(7) and (8) and 142 (4) and (5) of the Adoption and Children Act 2002 <sup>M2</sup>, and all other powers enabling her in that behalf, hereby makes the following Regulations:

**Marginal Citations**

- M1** 1989 c. 41. Section 26 was amended by section 118 of the Adoption and Children Act 2002 (“the Act”).  
**M2** 2002 c. 38.

**PART 1**

**GENERAL**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Adoption Agencies Regulations 2005 and shall come into force on 30th December 2005.

(2) These Regulations apply to England only.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Adoption and Children Act 2002;

“the 1989 Act” means the Children Act 1989;

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)*

“adoption panel” means a panel established in accordance with regulation 3;

“adoption placement plan” has the meaning given in regulation 35(2);

“adoption placement report” means the report prepared by the adoption agency in accordance with regulation 31(2)(d);

“adoption support services” has the meaning given in section 2(6)(a) of the Act and in any regulations made under section 2(6)(b) of the Act;

“adoptive family” has the meaning given in regulation 31(2)(a);

“CAFCASS” means the Children and Family Court Advisory and Support Service <sup>M3</sup>;

“child's case record” has the meaning given in regulation 12;

“child's health report” means the report obtained in accordance with regulation 15(2)(b);

“child's permanence report” means the report prepared by the adoption agency in accordance with regulation 17(1);

“independent member” in relation to an adoption panel has the meaning given in regulation 3(3)(e);

“independent review panel” means a panel constituted under section 12 of the Act;

“joint adoption panel” means an adoption panel established in accordance with regulation 3(5);

“medical adviser” means the person appointed as the medical adviser by the adoption agency in accordance with regulation 9(1);

“proposed placement” has the meaning given in regulation 31(1);

“prospective adopter's case record” has the meaning given in regulation 22(1);

“prospective adopter's report” means the report prepared by the adoption agency in accordance with regulation 25(5);

“prospective adopter's review report” means the report prepared by the adoption agency in accordance with regulation 29(4)(a);

“qualifying determination” has the meaning given in regulation 27(4)(a);

“registration authority” means [<sup>F1</sup>Her Majesty's Chief Inspector of Education, Children's Services and Skills];

“relevant foreign authority” means a person, outside the British Islands performing functions in the country in which the child is, or in which the prospective adopter is, habitually resident which correspond to the functions of an adoption agency <sup>M4</sup> or to the functions of the Secretary of State in respect of adoptions with a foreign element;

“relevant post-qualifying experience” means post-qualifying experience in child care social work including direct experience in adoption work;

“section 83 case” means a case where a person who is habitually resident in the British Islands intends to bring, or to cause another to bring, a child into the United Kingdom in circumstances where section 83 of the Act (restriction on bringing children into the United Kingdom) applies;

“social worker” means a person who is registered as a social worker in a register maintained by the General Social Care Council or the Care Council for Wales under section 56 of the Care Standards Act 2000 <sup>M5</sup> or in a corresponding register maintained under the law of Scotland or Northern Ireland;

“vice chair” has the meaning given in regulation 3(4) or, as the case may be, (5)(c);

“working day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971 <sup>M6</sup>.

#### Textual Amendments

- F1** Words in [reg. 2](#) substituted (1.4.2007) by [The Education and Inspections Act 2006 \(Consequential Amendments\) Regulations 2007 \(S.I. 2007/603\)](#), regs. 1, 3

#### Marginal Citations

- M3** See section 11(1) of the [Criminal Justice and Court Services Act 2000 \(c. 43\)](#).  
**M4** See section 2(1) of the Act for the definition of adoption agency.  
**M5** [2000 c. 14](#).  
**M6** [1971 c. 80](#).

## PART 2

### ADOPTION AGENCY - ARRANGEMENTS FOR ADOPTION WORK

#### Establishment of adoption panel

**3.—(1)** Subject to paragraph (5) [<sup>F2</sup>and regulation 3A], an adoption agency must establish at least one panel, to be known as an adoption panel, in accordance with this regulation.

(2) The adoption agency must appoint to chair the panel a person, not being a disqualified person, who has the skills and experience necessary for chairing an adoption panel.

(3) Subject to paragraph (5), the adoption panel shall consist of no more than ten members, including the person appointed under paragraph (2), and shall include —

- (a) two social workers each with at least three years' relevant post-qualifying experience;
- (b) in the case of a registered adoption society <sup>M7</sup>, one person who is a director, manager or other officer and is concerned in the management of that society;
- (c) in the case of a local authority, one member of that authority;
- (d) the medical adviser to the adoption agency (or one of them if more than one medical adviser is appointed);
- (e) at least three other persons (in this regulation referred to as “independent members”) including where reasonably practicable at least two persons with personal experience of adoption.

(4) The adoption agency must appoint one member of the adoption panel as vice chair (“vice chair”) who shall act as chair if the person appointed to chair the panel is absent or his office is vacant.

(5) An adoption panel may be established jointly by any two or more local authorities (“joint adoption panel”) and if a joint adoption panel is established—

- (a) the maximum number of members who may be appointed to that panel is eleven;
- (b) by agreement between the local authorities there shall be appointed to that panel—
  - (i) a person to chair the panel, not being a disqualified person, who has the skills and experience necessary for chairing an adoption panel;
  - (ii) two social workers each with at least three years' relevant post-qualifying experience;
  - (iii) one member of any of the local authorities;
  - (iv) the medical adviser to one of the local authorities; and
  - (v) at least three independent members including where reasonably practicable at least two persons with personal experience of adoption;

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)*

- (c) by agreement the local authorities must appoint one member of the panel as vice chair (“vice chair”) who shall act as chair if the person appointed to chair the panel is absent or his office is vacant.
- (6) A person shall not be appointed as an independent member of an adoption panel if—
- (a) in the case of a registered adoption society, he is or has been within the last year a trustee or employee, or is related to an employee, of that society;
- (b) in the case of a local authority, he—
- (i) is or has been within the last year employed by that authority in their children and family social services;
- (ii) is related to a person falling within head (i); or
- (iii) is or has been within the last year a member of that authority; or
- (c) he is the adoptive parent of a child who was—
- (i) placed for adoption with him by the adoption agency (“agency A”); or
- (ii) placed for adoption with him by another adoption agency where he had been approved as suitable to be an adoptive parent by agency A,
- unless at least twelve months has elapsed since the adoption order was made in respect of the child.
- (7) For the purposes of regulation 3(2) and (5)(b)(i) a person is a disqualified person if—
- (a) in the case of a registered adoption society, he is or has been within the last year a trustee or employee, or is related to an employee, of that society; or
- [<sup>F3</sup>(b) in the case of a local authority, he—
- (i) is or has been within the last year employed by that authority in their children and family social services;
- (ii) is related to a person falling within head (i); or
- (iii) is or has been within the last year a member of that authority.]
- (8) For the purposes of paragraphs (6)(a) and (b)(ii) and (7) a person (“person A”) is related to another person (“person B”) if person A is—
- (a) a member of the household of, or married to or the civil partner <sup>M8</sup> of, person B;
- (b) the son, daughter, mother, father, sister or brother of person B; or
- (c) the son, daughter, mother, father, sister or brother of the person to whom person B is married or with whom B has formed a civil partnership.

#### Textual Amendments

**F2** Words in reg. 3(1) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(a)**

**F3** Reg. 3(7)(b) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(b)**

#### Marginal Citations

**M7** See section 2(2) of the Act.

**M8** For the definitions of “civil partner” and “civil partnership” see Schedule 1 to the Interpretation Act 1978 inserted by the [Civil Partnership Act 2004 \(c. 33\)](#), **Schedule 27**, paragraph 59.

[<sup>F4</sup>3A. Where an adoption agency operates only for the purpose of putting persons into contact with other adoption agencies and for the purpose of putting such agencies into contact with each other or for either of such purposes, regulations 3, 8, 10 and, to the extent that it requires consultation with the adoption panel, regulation 7 shall not apply to such an agency.]

#### Textual Amendments

F4 Reg. 3A inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, 5(c)

### Tenure of office of members of the adoption panel

4.—(1) Subject to the provisions of this regulation and regulation 10, a member of an adoption panel shall hold office for a term not exceeding three years, and may not hold office for the adoption panel of the same adoption agency for more than three terms in total.

(2) The medical adviser member of the adoption panel shall hold office only for so long as he is the medical adviser.

(3) A member of an adoption panel may resign his office at any time by giving one month's notice in writing to the adoption agency.

(4) Where an adoption agency is of the opinion that any member of the adoption panel is unsuitable or unable to remain in office, it may terminate his office at any time by giving him notice in writing with reasons.

(5) If the member whose appointment is to be terminated under paragraph (4) is a member of a joint adoption panel, his appointment may only be terminated with the agreement of all the local authorities whose panel it is.

### Meetings of adoption panel

5.—(1) Subject to paragraph (2), no business shall be conducted by the adoption panel unless at least five of its members, including the person appointed to chair the panel or the vice chair and at least one of the social workers and one of the independent members, meet as the panel.

(2) In the case of a joint adoption panel, no business shall be conducted unless at least six of its members, including the person appointed to chair the panel or the vice chair and at least one of the social workers and one of the independent members, meet as the panel.

(3) An adoption panel must make a written record of its proceedings, its recommendations and the reasons for its recommendations.

### Payment of fees to member of local authority adoption panel

6. A local authority may pay to any member of their adoption panel such fee as they may determine, being a fee of a reasonable amount.

### Adoption agency arrangements for adoption work

7. An adoption agency must, in consultation with the adoption panel and, to the extent specified in regulation 9(2) with the agency's medical adviser, prepare and implement written policy and procedural instructions governing the exercise of the functions of the agency and the adoption panel in relation to adoption and such instructions shall be kept under review and, where appropriate, revised by the agency.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)*

### **Requirement to appoint an agency adviser to the adoption panel**

**8.**—(1) The adoption agency must appoint a senior member of staff, or in the case of a joint adoption panel the local authorities whose panel it is must by agreement appoint a senior member of staff of one of them, (referred to in this regulation as the “agency adviser”)—

- (a) to assist the agency with the appointment (including re-appointment), termination and review of appointment of members of the adoption panel;
- (b) to be responsible for the induction and training of members of the adoption panel;
- (c) to be responsible for liaison between the agency and the adoption panel, monitoring the performance of members of the adoption panel and the administration of the adoption panel; and
- (d) to give such advice to the adoption panel as the panel may request in relation to any case or generally.

(2) The agency adviser must be a social worker and have at least five years' relevant post-qualifying experience and, in the opinion of the adoption agency, relevant management experience.

### **Requirement to appoint a medical adviser**

**9.**—(1) The adoption agency must appoint at least one registered medical practitioner to be the agency's medical adviser.

(2) The medical adviser shall be consulted in relation to the arrangements for access to, and disclosure of, health information which is required or permitted by virtue of these Regulations.

### **Establishment of new adoption panels on 30 December 2005**

**10.**—(1) All members of an adoption panel established before 30th December 2005 (referred to in this regulation as the “old adoption panel”) shall cease to hold office on that date.

(2) With effect from 30th December 2005 an adoption agency shall establish a new adoption panel in accordance with regulations 3 and 4.

(3) This paragraph applies where [<sup>F5</sup>a person’s term of office as] a member of the old adoption panel was extended by the adoption agency in accordance with regulation 5A(1A) of the Adoption Agencies Regulations 1983 <sup>M9</sup>.

(4) This paragraph applies where [<sup>F6</sup>the person served only one] term of office as a member of the old adoption panel.

(5) [<sup>F7</sup>A person who has been at any time a member of an old adoption panel] may not hold office as a member of the new adoption panel of the same adoption agency—

- (a) where paragraph (3) applies, for more than one term, not exceeding one year;
- (b) where paragraph (4) applies, for more than two terms, each term not exceeding three years;
- (c) in any other case, for more than one term, not exceeding three years.

#### **Textual Amendments**

- F5** Words in [reg. 10\(3\)](#) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(d\)\(i\)](#)
- F6** Words in [reg. 10\(4\)](#) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(d\)\(ii\)](#)
- F7** Words in [reg. 10\(5\)](#) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(d\)\(iii\)](#)

**Marginal Citations**

**M9** S.I. 1983/1964. Regulation 5A(1A) was inserted in relation to England by the [Adoption Agencies \(Amendment\) Regulations 2003 \(S.I. 2003/2555\)](#).

## PART 3

### DUTIES OF ADOPTION AGENCY WHERE THE AGENCY IS CONSIDERING ADOPTION FOR A CHILD

#### Application of regulations 11 to 17

11. Regulations [<sup>F8</sup>12] to 17 apply where the adoption agency is considering adoption for a child.

**Textual Amendments**

**F8** Word in [reg. 11](#) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(e\)](#)

#### Requirement to open the child's case record

12.—(1) The adoption agency must set up a case record (“the child's case record”) in respect of the child and place on it—

- (a) the information and reports obtained by the agency by virtue of this Part;
- (b) the child's permanence report;
- (c) the written record of the proceedings of the adoption panel under regulation 18, its recommendation and the reasons for its recommendation and any advice given by the panel to the agency;
- (d) the record of the agency's decision and any notification of that decision under regulation 19;
- (e) any consent to placement for adoption under section 19 of the Act (placing children with parental consent);
- (f) any consent to the making of a future adoption order under section 20 of the Act (advance consent to adoption);
- (g) any form or notice withdrawing consent under section 19 or 20 of the Act or notice under section 20(4)(a) or (b) of the Act;
- (h) a copy of any placement order <sup>M10</sup> in respect of the child; and
- (i) any other documents or information obtained by the agency which it considers should be included in that case record.

(2) Where an adoption agency places on the child's case record a notice under section 20(4)(a) or (b) of the Act, the agency must send a copy of that notice to a court which has given the agency notice of the issue of an application for an adoption order.

**Marginal Citations**

**M10** See section 21 of the Act.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)*

**Requirement to provide counselling and information for, and ascertain wishes and feelings of, the child**

13.—(1) The adoption agency must, so far as is reasonably practicable—

- (a) provide a counselling service for the child;
- (b) explain to the child in an appropriate manner the procedure in relation to, and the legal implications of, adoption for the child and provide him with appropriate written information about these matters; and
- (c) ascertain the child's wishes and feelings regarding—
  - (i) the possibility of placement for adoption with a new family and his adoption;
  - (ii) his religious and cultural upbringing; and
  - (iii) contact with his parent or guardian or other relative or with any other person the agency considers relevant.

(2) Paragraph (1) does not apply if the adoption agency is satisfied that the requirements of that paragraph have been carried out in respect of the child by another adoption agency.

**Modifications etc. (not altering text)**

C1 Reg. 13 applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), 36

**Requirement to provide counselling and information for, and ascertain wishes and feelings of, the parent or guardian of the child and others**

14.—(1) The adoption agency must, so far as is reasonably practicable—

- (a) provide a counselling service for the parent or guardian of the child;
- (b) explain to him—
  - (i) the procedure in relation to both placement for adoption and adoption;
  - (ii) the legal implications of—
    - (aa) giving consent to placement for adoption under section 19 of the Act;
    - (bb) giving consent to the making of a future adoption order under section 20 of the Act; and
    - (cc) a placement order; and
  - (iii) the legal implications of adoption,
 and provide him with written information about these matters; and
- (c) ascertain the wishes and feelings of the parent or guardian of the child and, of any other person the agency considers relevant, regarding—
  - (i) the child;
  - (ii) the placement of the child for adoption and his adoption, including any wishes and feelings about the child's religious and cultural upbringing; and
  - (iii) contact with the child if the child is authorised to be placed for adoption or the child is adopted.

(2) Paragraph (1) does not apply if the agency is satisfied that the requirements of that paragraph have been carried out in respect of the parent or guardian and any other person the agency considers relevant by another adoption agency.



(3) This paragraph applies where the father of the child does not have parental responsibility for the child and the father's identity is known to the adoption agency.

(4) Where paragraph (3) applies and the adoption agency is satisfied it is appropriate to do so, the agency must—

- (a) carry out in respect of the father the requirements of paragraph (1)(a), (b)(i) and (iii) and (c) as if they applied to him unless the agency is satisfied that the requirements have been carried out in respect of the father by another agency; and
- (b) ascertain so far as possible whether the father—
  - (i) wishes to acquire parental responsibility for the child under section 4 of the 1989 Act (acquisition of parental responsibility by father)<sup>M11</sup>; or
  - (ii) intends to apply for a residence order or contact order with respect to the child under section 8 of the 1989 Act (residence, contact and other orders with respect to children) or, where the child is subject to a care order, an order under section 34 of the 1989 Act (parental contact etc. with children in care).

**Modifications etc. (not altering text)**

**C2** Reg. 14 applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), 37

**Marginal Citations**

**M11** Section 4 was amended by section 111 of the Act.

**Requirement to obtain information about the child**

**15.**—(1) The adoption agency must obtain, so far as is reasonably practicable, the information about the child which is specified in Part 1 of Schedule 1.

(2) Subject to paragraph (4), the adoption agency must—

- (a) make arrangements for the child to be examined by a registered medical practitioner; and
- (b) obtain from that practitioner a written report (“the child's health report”) on the state of the child's health which shall include any treatment which the child is receiving, any need for health care and the matters specified in Part 2 of Schedule 1,

unless the agency has received advice from the medical adviser that such an examination and report is unnecessary.

(3) Subject to paragraph (4), the adoption agency must make arrangements—

- (a) for such other medical and psychiatric examinations of, and other tests on, the child to be carried out as are recommended by the agency's medical adviser; and
- (b) for written reports of such examinations and tests to be obtained.

(4) Paragraphs (2) and (3) do not apply if the child is of sufficient understanding to make an informed decision and refuses to submit to the examinations or other tests.

**Requirement to obtain information about the child's family**

**16.**—(1) The adoption agency must obtain, so far as is reasonably practicable, the information about the child's family which is specified in Part 3 of Schedule 1.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)*

(2) The adoption agency must obtain, so far as is reasonably practicable, the information about the health of each of the child's natural parents and his brothers and sisters (of the full blood or half-blood) which is specified in Part 4 of Schedule 1.

### **Requirement to prepare child's permanence report for the adoption panel**

**17.**—(1) The adoption agency must prepare a written report (“the child's permanence report”) which shall include—

- (a) the information about the child and his family as specified in Parts 1 and 3 of Schedule 1;
- (b) a summary, written by the agency's medical adviser, of the state of the child's health, his health history and any need for health care which might arise in the future;
- (c) the wishes and feelings of the child regarding the matters set out in regulation 13(1)(c);
- (d) the wishes and feelings of the child's parent or guardian, and where regulation 14(4)(a) applies, his father, and any other person the agency considers relevant, regarding the matters set out in regulation 14(1)(c);
- (e) the views of the agency about the child's need for contact with his parent or guardian or other relative or with any other person the agency considers relevant and the arrangements the agency proposes to make for allowing any person contact with the child;
- (f) an assessment of the child's emotional and behavioural development and any related needs;
- (g) an assessment of the parenting capacity of the child's parent or guardian and, where regulation 14(4)(a) applies, his father;
- (h) a chronology of the decisions and actions taken by the agency with respect to the child;
- (i) an analysis of the options for the future care of the child which have been considered by the agency and why placement for adoption is considered the preferred option; and
- (j) any other information which the agency considers relevant.

(2) [<sup>F9</sup>Subject to paragraph (2A),] the adoption agency must send—

- (a) the child's permanence report;
- (b) the child's health report and any other reports referred to in regulation 15; and
- (c) the information relating to the health of each of the child's natural parents,

to the adoption panel.

[<sup>F10</sup>(2A) The adoption agency shall only send the documents referred to in paragraph (2)(b) and (c) to the adoption panel if the agency’s medical adviser advises it to do so.]

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

#### **Textual Amendments**

**F9** Words in [reg. 17\(2\)](#) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(f\)](#)

**F10** [Reg. 17\(2A\)](#) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(g\)](#)

### **Function of the adoption panel in relation to a child referred by the adoption agency**

**18.**—(1) The adoption panel must consider the case of every child referred to it by the adoption agency and make a recommendation to the agency as to whether the child should be placed for adoption.

(2) In considering what recommendation to make the adoption panel must have regard to the duties imposed on the adoption agency under section 1(2), (4), (5) and (6) of the Act (considerations applying to the exercise of powers in relation to the adoption of a child) and—

- (a) must consider and take into account the reports and any other information passed to it in accordance with regulation 17;
- (b) may request the agency to obtain any other relevant information which the panel considers necessary; and
- (c) must obtain legal advice in relation to the case.

(3) Where the adoption panel makes a recommendation to the adoption agency that the child should be placed for adoption, it must consider and may at the same time give advice to the agency about—

- (a) the arrangements which the agency proposes to make for allowing any person contact with the child; and
- (b) where the agency is a local authority, whether an application should be made by the authority for a placement order in respect of the child.

### **Adoption agency decision and notification**

**19.**—(1) The adoption agency must take into account the recommendation of the adoption panel in coming to a decision about whether the child should be placed for adoption.

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

(3) The adoption agency must, if their whereabouts are known to the agency, notify in writing the parent or guardian and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child of its decision.

### **Request to appoint an officer of the Service or a Welsh family proceedings officer**

**20.** Where the parent or guardian of the child [<sup>F11</sup>resides in England and Wales and] is prepared to consent to the placement of the child for adoption under section 19 of the Act and, as the case may be, to consent to the making of a future adoption order under section 20 of the Act, the adoption agency must request the CAFCASS to appoint an officer of the Service <sup>M12</sup> or the National Assembly for Wales to appoint a Welsh family proceedings officer <sup>M13</sup> for the purposes of the signification by that officer of the consent to placement or to adoption by that parent or guardian and send with that request the information specified in Schedule 2.

#### **Textual Amendments**

**F11** Words in [reg. 20](#) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(h)**

#### **Marginal Citations**

**M12** See section 11(3) of the [Criminal Justice and Courts Services Act 2000 \(c. 43\)](#).

**M13** See section 35(4) of the [Children Act 2004 \(c. 31\)](#).

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)*

[<sup>F12</sup>**20A.**—(1) Where the parent or guardian resides outside England and Wales and is prepared to consent to the placement of the child for adoption under section 19 of the Act and, as the case may be, to consent to the making of a future adoption order under section 20 of the Act, the adoption agency must arrange for the appointment of an authorised person to witness the execution of the form of consent to placement or to adoption by that parent or guardian and send to that person the information specified in Schedule 2.

(2) “Authorised person” for the purposes of this regulation means in relation to a form of consent executed—

- (a) in Scotland, a Justice of the Peace or a Sheriff;
- (b) in Northern Ireland, a Justice of the Peace;
- (c) outside the United Kingdom, any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose; a British Consular officer; a notary public; or, if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.]

#### Textual Amendments

**F12** Reg. 20A inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(i)**

## PART 4

### DUTIES OF ADOPTION AGENCY IN RESPECT OF A PROSPECTIVE ADOPTER

#### Requirement to provide counselling and information

**21.**—(1) Where an adoption agency is considering a person's suitability to adopt a child, the agency must—

- (a) provide a counselling service for the prospective adopter;
- (b) in a section 83 case, explain to the prospective adopter 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 him the procedure in relation to, and the legal implications of, placement for adoption and adoption; and
- (d) provide him with written information about the matters referred to in sub-paragraph (b) or, as the case may be, (c).

(2) Paragraph (1) does not apply if the adoption agency is satisfied that the requirements set out in that paragraph have been carried out in respect of the prospective adopter by another adoption agency.

#### Modifications etc. (not altering text)

**C3** Reg. 21(1)(a) applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **14(1)**

### Requirement to consider application for an assessment of suitability to adopt a child

22.—(1) Where the adoption agency, following the procedures referred to in regulation 21, receives an application in writing in the form provided by the agency from a prospective adopter for an assessment of his suitability to adopt a child, the agency must set up a case record in respect of that prospective adopter (“the prospective adopter's case record”) and consider his suitability to adopt a child.

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

(3) The adoption agency must place on the prospective adopter's case record—

- (a) the application by the prospective adopter for an assessment of his suitability to adopt a child referred to in paragraph (1);
- (b) the information and reports obtained by the agency by virtue of this Part;
- (c) the prospective adopter's report and his observations on that report;
- (d) the written record of the proceedings of the adoption panel under regulation 26 (and, where applicable, regulation 27(6)), its recommendation and the reasons for its recommendation and any advice given by the panel to the agency;
- (e) the record of the agency's decision under regulation 27(3), (5) or, as the case may be, (9);
- (f) where the prospective adopter applied to the Secretary of State for a review by an independent review panel the recommendation of that review panel;
- (g) where applicable, the prospective adopter's review report and his observations on that report; and
- (h) any other documents or information obtained by the agency which it considers should be included in that case record.

#### Modifications etc. (not altering text)

C4

### Requirement to carry out police checks

23.—(1) An adoption agency must take steps to obtain—

- (a) in respect of the prospective adopter, an enhanced criminal record certificate within the meaning of section 115 of the Police Act 1997 <sup>M14</sup> including the matters specified in subsection (6A) of that section; and
- (b) in respect of any other member of his household aged 18 or over, an enhanced criminal record certificate under section 115 of that Act including the matters specified in subsection (6A) of that section.

(2) An adoption agency may not consider a person suitable to adopt a child if he or any member of his 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, he admitted.

(3) In paragraph (2), “specified offence” means—

- (a) an offence against a child;
- (b) an offence specified in Part 1 of Schedule 3;

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- (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979<sup>M15</sup> in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)<sup>M16</sup> 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 Court Services Act 2000<sup>M17</sup> except that it does not include an offence contrary to section 9 of the Sexual Offences Act 2003 (sexual activity with a child) in a case where the offender was under the age of 20 and the child was aged 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 he or any member of his 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 statutory 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 his household falls within paragraph (2) or (4), the agency must notify the prospective adopter as soon as possible that he cannot be considered suitable to adopt a child.

#### **Marginal Citations**

**M14** 1997 c. 50. Section 115 was amended by section 328 of the [Criminal Justice Act 2003 \(c. 44\)](#) section 19 of the [Health and Social Care Act 2001 \(c. 15\)](#) sections 90, 102, 104 and 116 of, and Schedule 4 to the [Care Standards Act 2000 \(c. 14\)](#) sections 152 and 215 of, and Schedules 13, 21 and 22 to, the [Education Act 2002 \(c. 32\)](#) section 8 of the [Protection of Children Act 1999 \(c. 14\)](#) section 135 of the Act, Schedule 2 to the [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#) and section 198 of and Schedule 6 to the [Licensing Act 2003](#).

**M15** 1979 c. 2.

**M16** 1876 c. 36.

**M17** 2000 c. 43. Schedule 4 to the 2000 Act was amended by the [Sexual Offences Act 2003 \(c. 42\)](#) and by the [Asylum and Immigration \(Treatment of Claimants\) Act 2004 \(c. 19\)](#).

#### **Requirement to provide preparation for adoption**

**24.**—(1) Where an adoption agency is considering a person's suitability to adopt a child, the agency must make arrangements for the prospective adopter to receive such preparation for adoption as the agency considers appropriate.

(2) In paragraph (1) “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 his family;
- (c) contact between a child and his 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.

(3) Paragraph (1) does not apply if the adoption agency is satisfied that the requirements set out in that paragraph have been carried out in respect of the prospective adopter by another adoption agency.

### **Prospective adopter's report**

**25.**—(1) This regulation applies where the adoption agency<sup>F13</sup> ... consider the prospective adopter may be suitable to adopt a child.

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

(3) The adoption agency must obtain—

(a) a written report from a registered medical practitioner about the health of the prospective adopter following a full examination which must include 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; and

(b) a written report of each of the interviews with the persons nominated by the prospective adopter to provide personal references for him.

(4) The adoption agency must ascertain whether the local authority in whose area the prospective adopter has his home have any information about the prospective adopter which may be relevant to the assessment and if so obtain from that authority a written report setting out that information.

(5) The adoption agency must prepare a written report (“the prospective adopter's report”) which shall include—

(a) the information about the prospective adopter and his family which is specified in Part 1 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 the agency obtains under paragraph (4);

(d) any observations of the agency on the matters referred to in regulations 21, 23 and 24;

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

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

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

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

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

(c) 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.

(7) Where the adoption agency receives information under paragraph (2), (3) or (4) or other information in relation to the assessment of the prospective adopter and is of the opinion that a prospective adopter is unlikely to be considered suitable to adopt a child, it may make the prospective

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adopter's report under paragraph (5) notwithstanding that the agency may not have obtained all the information about the prospective adopter which may be required by this regulation.

[<sup>F14</sup>(7A) The report shall not be completed until the adoption agency has carried out police checks in accordance with regulation 23 and made arrangements for the prospective adopter to receive preparation for adoption in accordance with regulation 24.]

(8) The adoption agency must notify the prospective adopter that his application is to be referred to the adoption panel and give him a copy of the prospective adopter's report, inviting him to send any observations in writing to the agency within 10 working days, beginning with the date on which the notification is sent.

(9) At the end of the period of 10 working days referred to in paragraph (8) (or earlier if any observations made by the prospective adopter are received before that period has expired) the adoption agency must send—

- (a) the prospective adopter's report and the prospective adopter's observations;
- (b) the written reports referred to in paragraphs (3) and (4) [<sup>F15</sup>but in the case of reports obtained in accordance with paragraph (3)(a), 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.

(10) 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.

#### Textual Amendments

- F13** Words in reg. 25(1) omitted (30.12.2005) by virtue of [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(j)(i)**
- F14** Reg. 25(7A) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(j)(ii)**
- F15** Words in reg. 25(9)(b) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(j)(iii)**

#### Modifications etc. (not altering text)

- C5** Reg. 25 applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **15(2)**, **18(1)(c)**

### Function of the adoption panel

**26.**—(1) Subject to [<sup>F16</sup>paragraphs (2) and (2A)], 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 25;
  - (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.

[<sup>F17</sup>(2A) In relation to the case of a prospective adopter in respect of whom a report has been prepared in accordance with regulation 25(7), 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 25(5); or
  - (b) recommend that the prospective adopter is not suitable to adopt a child.]
- (3) 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, likely needs and background.
- (4) Before making any recommendation, the adoption panel must invite the prospective adopters to attend a meeting of the panel.

#### Textual Amendments

- F16** Words in reg. 26(1) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(k)(i)**
- F17** Reg. 26(2A) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(k)(ii)**

#### Modifications etc. (not altering text)

- C6** Reg. 26 applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **15(2)**

### Adoption agency decision and notification

**27.—**(1) The adoption agency must make a decision about whether the prospective adopter is suitable to adopt a child.

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

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

(4) 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 him 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;
- (c) advise the prospective adopter that within 40 working days beginning with the date on which the notification was sent he may—
  - (i) submit any representations he 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.

(5) If, within the period of 40 working days referred to in paragraph (4), 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 shall proceed to make its decision and shall notify the prospective adopter in writing of its decision together with the reasons for that decision.

(6) If, within the period of 40 working days referred to in paragraph (4), the adoption agency receives further representations from the prospective adopter, it may refer the case together with all the relevant information to the adoption panel for further consideration.

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(7) The adoption panel must consider any case referred to it under paragraph (6) and make a fresh recommendation to the adoption agency as to whether the prospective adopter is suitable to adopt a child.

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

- (a) if the case has been referred to the adoption panel under paragraph (6), the agency must make the decision only after taking into account the recommendations of the adoption panel made under both paragraph (7) and regulation 26; 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 26.

(9) As soon as possible after making its decision under paragraph (8), 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 (7), if this is different from the agency's decision.

(10) In a case where an independent review panel has made a recommendation, the adoption agency shall send to the Secretary of State a copy of the notification referred to in paragraph (9).

#### **Modifications etc. (not altering text)**

**C7** Reg. 27 applied (30.12.2005) by The Adoptions with a [Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **16**

#### **Information to be sent to the independent review panel**

**28.**—(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 25;
- (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 subparagraph (a) were passed to the adoption panel; and
- (c) the documents referred to in regulation 27(4)(a) and (b).

#### **Review and termination of approval**

**29.**—(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 he wishes to proceed with the adoption; and
- (b) in any other case, a child is placed for adoption with the prospective adopter [<sup>F18</sup>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 a 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 shall include the agency's reasons;
- (b) notify the prospective adopter that his case is to be referred to the adoption panel; and
- (c) give him a copy of the report inviting him to send any observations to the agency within 10 working days beginning with the date on which that report is [<sup>F19</sup>given to him].

(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 27(2) to (10) shall apply in relation to that decision by the agency.

#### **Textual Amendments**

**F18** Words in reg. 29(1)(b) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(l)**

**F19** Words in reg. 29(4)(c) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(m)**

#### **Modifications etc. (not altering text)**

**C8** Reg. 29 applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **17**

### **Duties of the adoption agency in a section 83 case**

**30.** 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 to 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, likely needs and background;
- (b) all the documents and information which were passed to the adoption panel in accordance with regulation 25;

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- (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.

## PART 5

### DUTIES OF ADOPTION AGENCY IN RESPECT OF PROPOSED PLACEMENT OF CHILD WITH PROSPECTIVE ADOPTER

#### Proposed placement

**31.**—(1) Where an adoption agency is considering placing a child for adoption with a particular prospective adopter (“the proposed placement”) the agency must—

- (a) provide the prospective adopter with a copy of the child's permanence report and any other information the agency considers relevant;
- (b) meet with the prospective adopter to discuss the proposed placement;
- (c) ascertain the views of the prospective adopter about—
  - (i) the proposed placement; and
  - (ii) the arrangements the agency proposes to make for allowing any person contact with the child; and
- (d) provide a counselling service for, and any further information to, the prospective adopter as may be required.

(2) Where the adoption agency considers that the proposed placement should proceed, the agency must—

- (a) where the agency is a local authority, carry out an assessment of the needs of the child and the prospective adopter and any children of the prospective adopter (“the adoptive family”) for adoption support services in accordance with regulations made under section 4(6) of the Act;
- (b) where the agency is a registered adoption society, notify the prospective adopter that he may request the local authority in whose area he has his home (“the relevant authority”) to carry out an assessment of his needs for adoption support services under section 4(1) of the Act and pass to the relevant authority, at their request, a copy of the child's permanence report and a copy of the prospective adopter's report;
- (c) consider the arrangements for allowing any person contact with the child; and
- (d) prepare a written report (“the adoption placement report”) which shall include—
  - (i) the agency's reasons for proposing the placement;
  - (ii) the information obtained by the agency by virtue of paragraph (1);
  - (iii) where the agency is a local authority, their proposals for the provision of adoption support services for the adoptive family;
  - (iv) the arrangements the agency proposes to make for allowing any person contact with the child; and
  - (v) any other relevant information.

(3) [F20 Where the adoption agency remains of the view that the proposed placement should proceed, it] must notify the prospective adopter that the proposed placement is to be referred to the adoption panel and give him a copy of the adoption placement report, inviting him to send any observations in writing to the agency within 10 working days, beginning with the date on which the notification is sent.

(4) At the end of the period of 10 working days referred to in paragraph (3) (or earlier if observations are received before the 10 working days has expired) the adoption agency must send—

- (a) the adoption placement report;
- (b) the child's permanence report; and
- (c) the prospective adopter's report and his observations,

to the adoption panel.

(5) The adoption agency must obtain so far as is reasonably practicable any other relevant information which may be requested by the adoption panel in connection with the proposed placement and send that information to the panel.

(6) This paragraph applies where an adoption agency (“agency A”) intends to refer a proposed placement to the adoption panel and another agency (“agency B”) made the decision (in accordance with these Regulations) that—

- (a) the child should be placed for adoption; or
- (b) the prospective adopter is suitable to be an adoptive parent.

(7) Where paragraph (6) applies agency A may only refer the proposed placement to the adoption panel if it has consulted agency B about the proposed placement.

(8) Agency A must—

- (a) where paragraph (6)(a) applies, open a child's case record; or
- (b) where paragraph (6)(b) applies, open a prospective adopter's case record,

and place on the appropriate record, the information and documents received from agency B.

#### Textual Amendments

**F20** Words in [reg. 31\(3\)](#) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(n)**

### Function of the adoption panel in relation to proposed placement

**32.**—(1) The adoption panel must consider the proposed placement referred to it by the adoption agency and make a recommendation to the agency as to whether the child should be placed for adoption with that particular prospective adopter.

(2) In considering what recommendation to make the adoption panel shall have regard to the duties imposed on the adoption agency under section 1(2), (4) and (5) of the Act (considerations applying to the exercise of powers in relation to the adoption of a child) and—

- (a) must consider and take into account all information and the reports passed to it in accordance with regulation 31;
- (b) may request the 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) The adoption panel must consider—

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- (a) in a case where the adoption agency is a local authority, the authority's proposals for the provision of adoption support services for the adoptive family;
  - (b) the arrangements the adoption agency proposes to make for allowing any person contact with the child; and
  - (c) whether the parental responsibility of any parent or guardian or the prospective adopter should be restricted and if so the extent of any such restriction.
- (4) Where the adoption panel makes a recommendation to the adoption agency that the child should be placed for adoption with the particular prospective adopter, the panel may at the same time give advice to the agency about any of the matters set out in paragraph (3).
- (5) An adoption panel may only make the recommendation referred to in paragraph (1) if—
- (a) that recommendation is to be made at the same meeting of the adoption panel at which a recommendation has been made that the child should be placed for adoption; or
  - (b) the adoption agency, or another adoption agency, has already made a decision in accordance with regulation 19 that the child should be placed for adoption,
- and in either case that recommendation is to be made at the same meeting of the panel at which a recommendation has been made that the prospective adopter is suitable to adopt a child or the adoption agency, or another adoption agency, has made a decision in accordance with regulation 27 that the prospective adopter is suitable to adopt a child.

#### **Adoption agency decision in relation to proposed placement**

**33.**—(1) The adoption agency must take into account the recommendation of the adoption panel in coming to a decision about whether the child should be placed for adoption with the particular prospective adopter.

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

(3) As soon as possible after making its decision the adoption agency must notify in writing—

- (a) the prospective adopter of its decision; and
- (b) if their whereabouts are known to the agency, the parent or guardian and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child, of the fact that the child is to be placed for adoption.

(4) If the adoption agency decides that the proposed placement should proceed, the agency must, in an appropriate manner and having regard to the child's age and understanding, explain its decision to the child.

(5) The adoption agency must place on the child's case record—

- (a) the prospective adopter's report;
- (b) the adoption placement report and the prospective adopter's observations on that report;
- (c) the written record of the proceedings of the adoption panel under regulation 32, its recommendation, the reasons for its recommendation and any advice given by the panel to the agency; and
- (d) the record and notification of the agency's decision under this regulation.

#### **Modifications etc. (not altering text)**

- C9** Reg. 33 applied (with modifications) (30.12.2005) by The Adoptions with a [Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **45(1)**

### **Function of the adoption agency in a section 83 case**

**34.**—(1) This paragraph applies where in a section 83 case the adoption agency receives from the relevant foreign authority information about a child to be adopted by a prospective adopter.

- (2) Where paragraph (1) applies, the adoption agency must—
- (a) send a copy of the information referred to in paragraph (1) to the prospective adopter unless it is aware that the prospective adopter has received a copy;
  - (b) consider that information and meet with the prospective adopter to discuss the information; and
  - (c) if appropriate, provide a counselling service for, and any further information to, the prospective adopter as may be required.

## **PART 6**

### **PLACEMENT AND REVIEWS**

#### **Requirements imposed on the adoption agency before the child may be placed for adoption**

**35.**—(1) This paragraph applies where the adoption agency—

- (a) has decided in accordance with regulation 33 to place a child for adoption with a particular prospective adopter; and
- (b) has met with the prospective adopter to consider the arrangements it proposes to make for the placement of the child with him.

(2) Where paragraph (1) applies, the adoption agency must, as soon as possible, send the prospective adopter a placement plan in respect of the child which covers the matters specified in Schedule 5 (“the adoption placement plan”).

(3) Where the prospective adopter notifies the adoption agency that he wishes to proceed with the placement and the agency is authorised to place the child for adoption or, subject to paragraph (4), the child is less than 6 weeks old, the agency may place the child for adoption with the prospective adopter.

(4) Unless there is a placement order in respect of the child, the adoption agency may not place for adoption a child who is less than six weeks old unless the parent or guardian of the child has agreed in writing with the agency that the child may be placed for adoption.

(5) Where the child already has his home with the prospective adopter, the adoption agency must notify the prospective adopter in writing of the date on which the child is placed for adoption with him by that agency.

(6) The adoption agency must before the child is placed for adoption with the prospective adopter—

- (a) send to the prospective adopter's general practitioner written notification of the proposed placement and send with that notification a written report of the child's health history and current state of health;
- (b) send to the local authority (if that authority is not the adoption agency) and Primary Care Trust or Local Health Board (Wales)<sup>M18</sup>, in whose area the prospective adopter has his home, written notification of the proposed placement; and
- (c) where the child is of compulsory school age<sup>M19</sup>, send to the local education authority, in whose area the prospective adopter has his home, written notification of the proposed

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placement and information about the child's educational history and whether he has been or is likely to be assessed for special educational needs under the Education Act 1996.

(7) The adoption agency must notify the prospective adopter in writing of any change to the adoption placement plan.

(8) The adoption agency must place on the child's case record—

- (a) in the case of a child who is less than 6 weeks old and in respect of whom there is no placement order, a copy of the agreement referred to in paragraph (4); and
- (b) a copy of the adoption placement plan and any changes to that plan.

#### **Marginal Citations**

**M18** See sections 2 and 6 of the [National Health Service Reform and Health Care Professions Act 2002](#) (c. 17).

**M19** See section 8 of the [Education Act 1996](#) (c. 56).

#### **Reviews**

**36.**—(1) Where an adoption agency is authorised to place a child for adoption but the child is not for the time being placed for adoption the agency must carry out a review of the child's case—

- (a) not more than 3 months after the date on which the agency first has authority to place; and
- (b) thereafter not more than 6 months after the date of the previous review (“6 months review”),

until the child is placed for adoption.

(2) Paragraphs (3) and (4) apply where a child is placed for adoption.

(3) The adoption agency must carry out a review of the child's case—

- (a) not more than 4 weeks after the date on which the child is placed for adoption (“the first review”);
- (b) not more than 3 months after the first review; and
- (c) thereafter not more than 6 months after the date of the previous review,

unless the child is returned to the agency by the prospective adopter or an adoption order is made.

(4) The adoption agency must—

- (a) ensure that the child and the prospective adopter are visited within one week of the placement and thereafter at least once a week until the first review and thereafter at such frequency as the agency decides at each review;
- (b) ensure that written reports are made of such visits; and
- (c) provide such advice and assistance to the prospective adopter as the agency considers necessary.

(5) When carrying out a review the adoption agency must consider each of the matters set out in paragraph (6) and must, so far as is reasonably practicable, ascertain the views of—

- (a) the child, having regard to his age and understanding;
- (b) if the child is placed for adoption, the prospective adopter; and
- (c) any other person the agency considers relevant,

in relation to such of the matters set out in paragraph (6) as the agency considers appropriate.

(6) The matters referred to in paragraph (5) are—



- (a) whether the adoption agency remains satisfied that the child should be placed for adoption;
  - (b) the child's needs, welfare and development, and whether any changes need to be made to meet his needs or assist his development;
  - (c) the existing arrangements for contact, and whether they should continue or be altered;
  - (d) <sup>F21</sup>..., the arrangements in relation to the exercise of parental responsibility for the child, and whether they should continue or be altered;
  - (e) [<sup>F22</sup>where the child is placed for adoption], the arrangements for the provision of adoption support services for the adoptive family and whether there should be any re-assessment of the need for those services;
  - (f) in consultation with the appropriate agencies, the arrangements for assessing and meeting the child's health care and educational needs;
  - (g) subject to paragraphs (1) and (3), the frequency of the reviews.
- (7) Where the child is subject to a placement order and has not been placed for adoption at the time of the first 6 months review, the local authority must at that review—
- (a) establish why the child has not been placed for adoption and consider what further steps the authority should take in relation to the placement of the child for adoption; and
  - (b) consider whether it remains satisfied that the child should be placed for adoption.
- (8) The adoption agency must, so far as is reasonably practicable, notify—
- (a) the child, where the agency considers he is of sufficient age and understanding;
  - (b) the prospective adopter; and
  - (c) any other person whom the agency considers relevant,
- of <sup>F23</sup>... any decision taken by the agency in consequence of that review.
- (9) The adoption agency must ensure that—
- (a) the information obtained in the course of a review or visit in respect of a child's case including the views expressed by the child;
  - (b) the details of the proceedings of any meeting arranged by the agency to consider any aspect of the review of the case; and
  - (c) details of any decision made in the course of or as a result of the review,
- are recorded in writing and placed on the child's case record.
- (10) Where the child is returned to the adoption agency in accordance with section 35(1) or (2) of the Act, the agency must conduct a review of the child's case no earlier than 28 days, or later than 42 days, after the date on which the child is returned to the agency and when carrying out that review the agency must consider the matters set out in paragraph (6)(a), (b), (c) and (f).

#### Textual Amendments

- F21** Words in [reg. 36\(6\)\(d\)](#) omitted (30.12.2005) by virtue of [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(o\)\(i\)](#)
- F22** Words in [reg. 36\(6\)\(e\)](#) inserted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(o\)\(ii\)](#)
- F23** Words in [reg. 36\(8\)](#) omitted (30.12.2005) by virtue of [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), [regs. 1, 5\(o\)\(iii\)](#)

## Independent reviewing officers

37.—(1) An adoption agency which is—

- (a) a local authority; or
- (b) a registered adoption society which is a voluntary organisation who provide accommodation for a child,

must appoint a person (“the independent reviewing officer”) in respect of the case of each child authorised to be placed for adoption by the agency to carry out the functions mentioned in section 26(2A) of the 1989 Act.

(2) The independent reviewing officer must be registered as a social worker in a register maintained by the General Social Care Council or by the Care Council for Wales under section 56 of the Care Standards Act 2000 or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(3) The independent reviewing officer must, in the opinion of the adoption agency, have sufficient relevant social work experience to undertake the functions referred to in paragraph (1) in relation to the case.

(4) A person who is an employee of the adoption agency may not be appointed as an independent reviewing officer in a case if he is involved in the management of the case or is under the direct management of—

- (a) a person involved in the management of the case;
- (b) a person with management responsibilities in relation to a person mentioned in subparagraph (a); or
- (c) a person with control over the resources allocated to the case.

(5) The independent reviewing officer must—

- (a) as far as is reasonably practicable attend any meeting held in connection with the review of the child's case; and
- (b) chair any such meeting that he attends.

(6) The independent reviewing officer must, as far as is reasonably practicable, take steps to ensure that the review is conducted in accordance with regulation 36 and in particular to ensure—

- (a) that the child's views are understood and taken into account;
- (b) that the persons responsible for implementing any decision taken in consequence of the review are identified; and
- (c) that any failure to review the case in accordance with regulation 36 or to take proper steps to make the arrangements agreed at the review is brought to the attention of persons at an appropriate level of seniority within the adoption agency.

(7) If the child whose case is reviewed wishes to take proceedings on his own account, for example, to apply to the court for revocation of a placement order, it is the function of the independent reviewing officer—

- (a) to assist the child to obtain legal advice; or
- (b) to establish whether an appropriate adult is able and willing to provide such assistance or bring the proceedings on the child's behalf.

(8) The adoption agency must inform the independent reviewing officer of—

- (a) any significant failure to make the arrangements agreed at a review; and
- (b) any significant change in the child's circumstances after a review.

### Withdrawal of consent

**38.**—(1) This paragraph applies where consent given under section 19 or 20 of the Act in respect of a child is withdrawn in accordance with section 52(8) of the Act.

(2) Where paragraph (1) applies and the adoption agency is a local authority, on receipt of the form or notice given in accordance with section 52(8) of the Act the authority must immediately review their decision to place the child for adoption and where, in accordance with section 22(1) to (3) of the Act, the authority decide to apply for a placement order in respect of the child, they must notify as soon as possible—

- (a) the parent or guardian of the child;
- (b) where regulation 14(3) applies and the agency considers it is appropriate, the child's father; and
- (c) if the child is placed for adoption, the prospective adopter with whom the child is placed.

(3) Where paragraph (1) applies and the adoption agency is a registered adoption society, the agency must immediately consider whether it is appropriate to inform the local authority in whose area the child is living.

## PART 7

### CASE RECORDS

#### Modifications etc. (not altering text)

**C10** Pt. 7 applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), **5(2)**

### Storage of case records

**39.** The adoption agency must ensure that the child's case record and the prospective adopter's case record and the contents of those case records are at all times kept in secure conditions and in particular that all appropriate measures are taken to prevent the theft, unauthorised disclosure, loss or destruction of, or damage to, the case record or its contents.

### Preservation of case records

**40.** An adoption agency must keep the child's case record and the prospective adopter's case record for such period as it considers appropriate.

### Confidentiality of case records

**41.** Subject to regulation 42, the contents of the child's case record and the prospective adopter's case record shall be treated by the adoption agency as confidential.

### Access to case records and disclosure of information

**42.**—(1) Subject to paragraph (3), an adoption agency shall provide such access to its case records and disclose such information in its possession, as may be required—

- (a) to those holding an inquiry under [<sup>F24</sup>sections 3 and 4 of the Children Act 2004 (inquiries held by the Children's Commissioner) or under the Inquiries Act 2005] for the purposes of such an inquiry;

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- (b) to the Secretary of State;
- (c) to the registration authority;
- (d) subject to the provisions of sections 29(7) and 32(3) of the Local Government Act 1974<sup>M20</sup> (investigations and disclosure), to the Commission for Local Administration in England, for the purposes of any investigation conducted in accordance with Part 3 of that Act;
- (e) to any person appointed by the agency for the purposes of the consideration by the agency of any representations (including complaints);
- (f) by and to the extent specified in these Regulations;
- (g) to an officer of the Service or a Welsh family proceedings officer for the purposes of the discharge of his duties under the Act; and
- (h) to a court having power to make an order under the Act or the 1989 Act.

(2) Subject to paragraph (3), an adoption agency may provide such access to its case records and disclose such information in its possession, as it thinks fit for the purposes of carrying out its functions as an adoption agency.

(3) A written record shall be kept by an adoption agency of any access provided or disclosure made by virtue of this regulation.

#### Textual Amendments

**F24** Words in reg. 42(1)(a) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(p)**

#### Marginal Citations

**M20** 1974 c. 7.

### Transfer of case records

**43.**—(1) An adoption agency may transfer a copy of a child's case record or prospective adopter's case record (or part of that record) to another adoption agency when it considers this to be in the interests of the child or prospective adopter to whom the record relates, and a written record shall be kept of any such transfer.

(2) Subject to paragraph (3), a registered adoption society which intends to cease to act or exist as such shall forthwith either transfer its case records to another adoption agency having first obtained the registration authority's approval for such transfer, or transfer its case records—

- (a) to the local authority in whose area the society's principal office is situated; or
- (b) in the case of a society which amalgamates with another registered adoption society to form a new registered adoption society, to the new body.

(3) An adoption agency to which case records are transferred by virtue of paragraph (2)(a) or (b) shall notify the registration authority in writing of such transfer.

### Application of regulations 40 to 42

**44.** Nothing in this Part applies to the information which an adoption agency must keep in relation to an adopted person by virtue of regulations made under section 56 of the Act.

## PART 8

### MISCELLANEOUS

#### Modification of 1989 Act in relation to adoption

45.—(1) This paragraph applies where—

- (a) a local authority are authorised to place a child for adoption; or
- (b) a child who has been placed for adoption by a local authority is less than 6 weeks old.

(2) Where paragraph (1) applies—

- (a) section 22(4)(b) of the 1989 Act shall not apply;
- (b) section 22(4)(c) of the 1989 Act shall apply as if for that sub-paragraph there were inserted “ (c) any prospective adopter with whom the local authority has placed the child for adoption<sup>[F25;]</sup> ”;
- (c) section 22(5)(b) of the 1989 Act shall apply as if for the words “(4)(b) to (d)” there were inserted “ (4)(c) and (d) ”; and
- (d) paragraphs 15 and 21 of Schedule 2 to the 1989 Act shall not apply.

(3) This paragraph applies where a registered adoption society is authorised to place a child for adoption or a child who has been placed for adoption by a registered adoption society is less than 6 weeks old.

(4) Where paragraph (3) applies—

- (a) section 61<sup>F26</sup>... of the 1989 Act is to have effect in relation to the child whether or not he is accommodated by or on behalf of the society;
- (b) section 61(2)(b) of the 1989 Act shall not apply; and
- (c) section 61(2)(c) of the 1989 Act shall apply as if for that sub-paragraph there were inserted “ (c) any prospective adopter with whom the registered adoption society has placed the child for adoption<sup>[F27;]</sup> ”.

#### Textual Amendments

**F25** Word in reg. 45(2)(b) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(q)(i)**

**F26** Word in reg. 45(4)(a) omitted (30.12.2005) by virtue of [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(q)(ii)**

**F27** Word in reg. 45(4)(c) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(q)(iii)**

#### Contact

46.—(1) This paragraph applies where an adoption agency decides that a child should be placed for adoption.

(2) Where paragraph (1) applies and subject to paragraph (3), the adoption agency must consider what arrangements it should make for allowing any person contact with the child once the agency is authorised to place the child for adoption (“the contact arrangements”).

(3) The adoption agency must—

- (a) take into account the wishes and feelings of the parent or guardian of the child and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child;

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- (b) take into account any advice given by the adoption panel in accordance with regulation 18(3); and
  - (c) have regard to the considerations set out in section 1(2) and (4) of the Act,
- in coming to a decision in relation to the contact arrangements.

(4) The adoption agency must notify—

- (a) the child, if the agency considers he is of sufficient age and understanding;
- (b) if their whereabouts are known to the agency, the parent or guardian, and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child;
- (c) any person in whose favour there was a provision for contact under the 1989 Act which ceased to have effect by virtue of section 26(1) of the Act <sup>M21</sup>; and
- (d) any other person the agency considers relevant,

of the contact arrangements.

(5) Where an adoption agency decides that a child should be placed for adoption with a particular prospective adopter, the agency must review the contact arrangements in light of the views of the prospective adopter and any advice given by the adoption panel in accordance with regulation 32(3).

(6) If the adoption agency proposes to make any change to the contact arrangements which affects any person mentioned in paragraph (4), it must seek the views of that person and take those views into account in deciding what arrangements it should make for allowing any person contact with the child while he is placed for adoption with the prospective adopter.

(7) The adoption agency must—

- (a) set out the contact arrangements in the placement plan; and
- (b) keep the contact arrangements under review.

#### **Marginal Citations**

**M21** For the definition of “a provision for contact under the 1989 Act” see section 26(6) of the Act.

#### **Contact: supplementary**

**47.—**(1) Where an adoption agency has decided under section 27(2) of the Act to refuse to allow the contact that would otherwise be required by virtue of an order under section 26 of the Act, the agency must, as soon as the decision is made, inform the persons specified in paragraph (3) and notify them of the decision, the date of the decision, the reasons for the decision and the duration of the period.

(2) The terms of an order under section 26 of the Act may be departed from by agreement between the adoption agency and any person for whose contact with the child the order provides subject to the following conditions—

- (a) where the child is of sufficient age and understanding, subject to his agreement;
- (b) where the child is placed for adoption, subject to consultation before the agreement is reached, with the prospective adopter with whom the child is placed for adoption; and
- (c) written confirmation by the agency to the persons specified in paragraph (3) of the terms of that agreement.

(3) The following persons are specified for the purposes of paragraphs (1) and (2)—

- (a) the child, if the adoption agency considers he is of sufficient age and understanding;
- (b) the person in whose favour the order under section 26 was made; and

(c) if the child is placed for adoption, the prospective adopter.

*Filkin*  
Parliamentary Under Secretary of State  
Department for Education and Skills

**Status:** Point in time view as at 01/04/2007.  
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SCHEDULE 1  
INFORMATION

Regulation 15(1)

**PART 1**  
INFORMATION ABOUT THE CHILD

1. Name, sex, date and place of birth and address including the local authority area.
2. A photograph and physical description.
3. Nationality.
4. Racial origin and cultural and linguistic background.
5. Religious persuasion (including details of baptism, confirmation or equivalent ceremonies).
6. Whether the child is looked after or is provided with accommodation under section 59(1) of the 1989 Act.
7. Details of any order made by a court with respect to the child under the 1989 Act including the name of the court, the order made and the date on which the order was made.
8. Whether the child has any rights to, or interest in, property or any claim to damages under the Fatal Accidents Act 1976 <sup>M22</sup> or otherwise which he stands to retain or lose if he is adopted.

**Marginal Citations**

**M22** 1976 c. 30.

9. A chronology of the child's care since birth.
10. A description of the child's personality, his social development and his emotional and behavioural development.
11. Whether the child has any difficulties with activities such as feeding, washing and dressing himself.
12. The educational history of the child including—
  - (a) the names, addresses and types of nurseries or schools attended with dates;
  - (b) a summary of his progress and attainments;
  - (c) whether he is subject to a statement of special educational needs under the Education Act 1996 <sup>M23</sup>;
  - (d) any special needs he has in relation to learning; and
  - (e) where he is looked after, details of his personal education plan prepared by the local authority.

**Marginal Citations**

**M23** See section 324 of the 1996 Act.

13. Information about—



- (a) the child's relationship with—
    - (i) his parent or guardian;
    - (ii) any brothers or sisters or other relatives he may have; and
    - (iii) any other person the agency considers relevant;
  - (b) the likelihood of any such relationship continuing and the value to the child of its doing so; and
  - (c) the ability and willingness of the child's parent or guardian or any other person the agency considers relevant, to provide the child with a secure environment in which he can develop, and otherwise to meet his needs.
14. The current arrangements for and the type of contact between the child's parent or guardian or other person with parental responsibility for him, his father, and any relative, friend or other person.
15. A description of the child's interests, likes and dislikes.
16. Any other relevant information which might assist the adoption panel and the adoption agency.
17. In this Part “parent” includes the child's father whether or not he has parental responsibility for the child.
- Regulation 15(2)

## PART 2

### MATTERS TO BE INCLUDED IN THE CHILD'S HEALTH REPORT

1. Name, date of birth, sex, weight and height.
2. A neo-natal report on the child, including—
  - (a) details of his birth and any complications;
  - (b) the results of a physical examination and screening tests;
  - (c) details of any treatment given;
  - (d) details of any problem in management and feeding;
  - (e) any other relevant information which may assist the adoption panel and the adoption agency; and
  - (f) the name and address of any registered medical practitioner who may be able to provide further information about any of the above matters.
3. A full health history of the child, including—
  - (a) details of any serious illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given;
  - (b) details and dates of immunisations;
  - (c) a physical and developmental assessment according to age, including an assessment of vision and hearing and of neurological, speech and language development and any evidence of emotional disorder;
  - (d) for a child over five years of age, the school health history (if available);
  - (e) how his physical and mental health and medical history have affected his physical, intellectual, emotional, social or behavioural development; and
  - (f) any other relevant information which may assist the adoption panel and the adoption agency.

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Regulation 16(1)

## **PART 3**

### **INFORMATION ABOUT THE CHILD'S FAMILY AND OTHERS**

#### **Information about each parent of the child**

1. Name, sex, date and place of birth and address including the local authority area.
2. A photograph, if available, and physical description.
3. Nationality.
4. Racial origin and cultural and linguistic background.
5. Religious persuasion.
6. A description of their personality and interests.

#### **Information about the child's brothers and sisters**

7. Name, sex, and date and place of birth.
8. A photograph, if available, and physical description.
9. Nationality.
10. Address, if appropriate.
11. If the brother or sister is under the age of 18—
  - (a) where and with whom he or she is living;
  - (b) whether he or she is looked after or is provided with accommodation under section 59(1) of the 1989 Act;
  - (c) details of any court order made with respect to him or her under the 1989 Act, including the name of the court, the order made, and the date on which the order was made; and
  - (d) whether he or she is also being considered for adoption.

#### **Information about the child's other relatives and any other person the agency considers relevant**

12. Name, sex and date and place of birth.
13. Nationality.
14. Address, if appropriate.

#### **Family history and relationships**

15. Whether the child's parents were married to each other at the time of the child's birth (or have subsequently married) and if so, the date and place of marriage and whether they are divorced or separated.

16. Where the child's parents are not married, whether the father has parental responsibility for the child and if so how it was acquired.

17. If the identity or whereabouts of the child's father are not known, the information about him that has been ascertained and from whom, and the steps that have been taken to establish paternity.

18. Where the child's parents have been previously married or formed a civil partnership, the date of the marriage or, as the case may be, the date and place of registration of the civil partnership.

19. So far as is possible, a family tree with details of the child's grandparents, parents and aunts and uncles with their age (or ages at death).

20. Where it is reasonably practicable, a chronology of each of the child's parents from birth.

21. The observations of the child's parents about their own experiences of being parented and how this has influenced them.

22. The past and present relationship of the child's parents.

23. Details of the wider family and their role and importance to—

(a) the child's parents; and

(b) any brothers or sisters of the child.

#### **Other information about each parent of the child**

24. Information about their home and the neighbourhood in which they live.

25. Details of their educational history.

26. Details of their employment history.

27. Information about the parenting capacity of the child's parents, particularly their ability and willingness to parent the child.

28. Any other relevant information which might assist the adoption panel and the adoption agency.

29. In this Part “parent” includes the father of the child whether or not he has parental responsibility for the child.

Regulation 16(2)

## **PART 4**

### **INFORMATION RELATING TO THE HEALTH OF THE CHILD'S NATURAL PARENTS AND BROTHERS AND SISTERS**

1. Name, date of birth, sex, weight and height of each natural parent.

2. A health history of each of the child's natural parents, including details of any serious physical or mental illness, any hereditary disease or disorder, drug or alcohol misuse, disability, accident or hospital admission and in each case any treatment given where the agency consider such information to be relevant.

3. A health history of the child's brothers and sisters (of the full blood or half-blood), and the other children of each parent with details of any serious physical or mental illness and any hereditary disease or disorder.

4. A summary of the mother's obstetric history, including any problems in the ante-natal, labour and post-natal periods, with the results of any tests carried out during or immediately after the pregnancy.

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

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

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## SCHEDULE 2

Regulation 20

### INFORMATION AND DOCUMENTS TO BE PROVIDED TO THE CAFCASS OR THE NATIONAL ASSEMBLY FOR WALES

1. A certified copy of the child's birth certificate.
2. Name and address of the child's parent or guardian.
3. A chronology of the actions and decisions taken by the adoption agency with respect to the child.
4. Confirmation by the adoption agency that it has counselled, and explained to the parent or guardian the legal implications of both consent to placement under section 19 of the Act and, as the case may be, to the making of a future adoption order under section 20 of the Act and provided the parent or guardian with written information about this together with a copy of the written information provided to him.
5. Such information about the parent or guardian or other information as the adoption agency considers the officer of the Service or the Welsh family proceedings officer may need to know.

## SCHEDULE 3

Regulation 23(3)

### PART 1

#### OFFENCES SPECIFIED FOR THE PURPOSES OF REGULATION 23(3)(b)

##### Offences in England and Wales

1. Any of the following offences against an adult—
  - (a) an offence of rape under section 1 of the Sexual Offences Act 2003 <sup>M24</sup>;
  - (b) an offence of assault by penetration under section 2 of that Act;
  - (c) an offence of causing a person to engage in sexual activity without consent under section 4 of that Act, if the activity fell within subsection (4) of that section;
  - (d) an offence of sexual activity with a person with a mental disorder impeding choice under section 30 of that Act, if the touching fell within subsection (3) of that section;
  - (e) an offence of causing or inciting a person with mental disorder impeding choice to engage in sexual activity under section 31 of that Act, if the activity caused or incited fell within subsection (3) of that section;
  - (f) an offence of inducement, threat or deception to procure sexual activity with a person with a mental disorder under section 34 of that Act, if the touching involved fell within subsection (2) of that section; and
  - (g) an offence of causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception under section 35 of that Act, if the activity fell within subsection (2) of that section.

**Marginal Citations**

**M24** 2003 c. 42.

**Offences in Scotland**

2. An offence of rape.

3. An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995<sup>M25</sup> except, in a case where the offender was under the age of 20 at the time the offence was committed, an offence contrary to section 5 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with a girl under 16)<sup>M26</sup>, an offence of shameless indecency between men or an offence of sodomy.

**Marginal Citations**

**M25** 1995 c. 46.

**M26** 1995 c. 39.

4. An offence of plagium (theft of a child below the age of puberty).

5. Section 52 or 52A of the Civil Government (Scotland) Act 1982 (indecent photographs of children)<sup>M27</sup>.

**Marginal Citations**

**M27** 1982 c. 45. Section 52A was inserted by section 161 of the [Criminal Justice Act 1988 \(c. 33\)](#).

6. An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of trust)<sup>M28</sup>.

**Marginal Citations**

**M28** 2000 c. 44.

**Offences in Northern Ireland**

7. An offence of rape.

8. An offence specified in Schedule 1 to the Children and Young Person Act (Northern Ireland) 1968<sup>M29</sup>, except offences of common assault or battery or in the case where the offender was under the age of 20 at the time the offence was committed, an offence contrary to section 5 or 11 of the Criminal Law Amendment Act 1885 (unlawful carnal knowledge of a girl under 17 and gross indecency between males)<sup>M30</sup>.

**Marginal Citations**

**M29** 1968 c. 34 (N.I.)

**M30** 1985 c. 69.

9. An offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (indecent photographs)<sup>M31</sup>.

**Status:** Point in time view as at 01/04/2007.  
**Changes to legislation:** There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)

**Marginal Citations**

**M31** S.I. 1978/1047 (N.I.17).

10. An offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (inciting girl under 16 to have incestuous sexual intercourse) <sup>M32</sup>.

**Marginal Citations**

**M32** S.I. 1980/704 (N.I.6).

11. An offence contrary to Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children) <sup>M33</sup>.

**Marginal Citations**

**M33** S.I. 1988/1847 (N.I.17).

Regulation 23(4)

## PART 2

### REPEALED STATUTORY OFFENCES

- 1.—(1) An offence under any of the following sections of the Sexual Offences Act 1956 <sup>M34</sup>—
- (a) section 1 (rape);
  - (b) section 5 (intercourse with a girl under 13);
  - (c) subject to paragraph 4, section 6 (intercourse with a girl under 16);
  - (d) section 19 or 20 (abduction of girl under 18 or 16);
  - (e) section 25 or 26 of that Act (permitting girl under 13, or between 13 and 16, to use premises for intercourse); and
  - (f) section 28 (causing or encouraging prostitution of, intercourse with or indecent assault on, girl under 16).
- (2) An offence under section 1 of the Indecency with Children Act 1960 <sup>M35</sup> (indecent conduct towards young child).
- (3) An offence under section 54 of the Criminal Law Act 1977 <sup>M36</sup> (inciting girl under sixteen to incest).
- (4) An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of trust).

**Marginal Citations**

**M34** 1956 c. 69.

**M35** 1960 c. 33.

**M36** 1977 c. 45.

2. A person falls within this paragraph if he has been convicted of any of the following offences against a child 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, he admitted—

- (a) an offence under section 2 or 3 of the Sexual Offences Act 1956 Act (procurement of woman by threats or false pretences);
- (b) an offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse);
- (c) an offence under section 14 or 15 of that Act (indecent assault);
- (d) an offence under section 16 of that Act (assault with intent to commit buggery);
- (e) an offence under section 17 of that Act (abduction of woman by force or for the sake of her property); and
- (f) an offence under section 24 of that Act (detention of woman in brothel or other premises).

3. A person falls within this paragraph if he has been convicted of any of the following offences 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, he admitted—

- (a) an offence under section 7 of the Sexual Offences Act 1956 (intercourse with defective) by having sexual intercourse with a child;
- (b) an offence under section 9 of that Act (procurement of defective) by procuring a child to have sexual intercourse;
- (c) an offence under section 10 of that Act (incest by a man) by having sexual intercourse with a child;
- (d) an offence under section 11 of that Act (incest by a woman) by allowing a child to have sexual intercourse with her;
- (e) subject to paragraph 4, an offence under section 12 of that Act by committing buggery with a child under the age of 16;
- (f) subject to paragraph 4, an offence under section 13 of that Act by committing an act of gross indecency with a child;
- (g) an offence under section 21 of that Act (abduction of defective from parent or guardian) by taking a child out of the possession of her parent or guardian;
- (h) an offence under section 22 of that Act (causing prostitution of women) in relation to a child;
- (i) an offence under section 23 of that Act (procurement of girl under 21) by procuring a child to have sexual intercourse with a third person;
- (j) an offence under section 27 of that Act (permitting defective to use premise for intercourse) by inducing or suffering a child to resort to or be on premises for the purpose of having sexual intercourse;
- (k) an offence under section 29 of that Act (causing or encouraging prostitution of defective) by causing or encouraging the prostitution of a child;
- (l) an offence under section 30 of that Act (man living on earnings of prostitution) in a case where the prostitute is a child;
- (m) an offence under section 31 of that Act (woman exercising control over prostitute) in a case where the prostitute is a child;
- (n) an offence under section 128 of the Mental Health Act 1959<sup>M37</sup> (sexual intercourse with patients) by having sexual intercourse with a child;

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**Changes to legislation:** There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005. (See end of Document for details)

- (o) an offence under section 4 of the Sexual Offences Act 1967<sup>M38</sup> (procuring others to commit homosexual acts) by—
  - (i) procuring a child to commit an act of buggery with any person; or
  - (ii) procuring any person to commit an act of buggery with a child;
- (p) an offence under section 5 of that Act (living on earnings of male prostitution) by living wholly or in part on the earnings of prostitution of a child; and
- (q) an offence under section 9(1)(a) of the Theft Act 1968<sup>M39</sup> (burglary), by entering a building or part of a building with intent to rape a child.

#### Marginal Citations

**M37** 1959 c. 72.

**M38** 1967 c. 60.

**M39** 1968 c. 60.

4. Paragraphs 1(c) and 3(e) and (f) do not include offences in a case where the offender was under the age of 20 at the time the offence was committed.

## SCHEDULE 4

Regulation 25(2)

### PART 1

#### INFORMATION ABOUT THE PROSPECTIVE ADOPTER

##### Information about the prospective adopter

1. Name, sex, date and place of birth and address including the local authority area.
2. A photograph and physical description.
3. Whether the prospective adopter is domiciled or habitually resident in a part of the British Islands and if habitually resident for how long he has been habitually resident.
4. Racial origin and cultural and linguistic background.
5. Religious persuasion.
6. Relationship (if any) to the child.
7. A description of his personality and interests.
8. If the prospective adopter is married or has formed a civil partnership and is applying alone for an assessment of his suitability to adopt, the reasons for this.
9. Details of any previous family court proceedings in which the prospective adopter has been involved.
10. 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.
11. Name and address of the prospective adopter's registered medical practitioner.



12. If the prospective adopter <sup>F28</sup> ...—
- (a) [<sup>F29</sup>is] married, the date and place of 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.

#### **Textual Amendments**

- F28** Word in Sch. 4 Pt. 1 para. 12 omitted (30.12.2005) by virtue of The Adoption and Children (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3482), regs. 1, **5(r)**
- F29** Word in Sch. 4 Pt. 1 para. 12(a) inserted (30.12.2005) by The Adoption and Children (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3482), regs. 1, **5(r)**

13. Details of any previous marriage, civil partnership or relationship.
14. A family tree with details of the prospective adopter, his siblings and any children of the prospective adopter, with their ages (or ages at death).
15. A chronology of the prospective adopter from birth.
16. The observations of the prospective adopter about his own experience of being parented and how this has influenced him.
17. 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 his ability in this respect.
18. Any other information which indicates how the prospective adopter and anybody else living in his household is likely to relate to a child placed for adoption with the prospective adopter.

#### **Wider family**

19. 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**

20. Information about the prospective adopter's home and the neighbourhood in which he lives.
21. Details of other members of the prospective adopter's household (including any children of the prospective adopter whether or not resident in the household).
22. 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**

23. Details of the prospective adopter's educational history and attainments and his views about how this has influenced him.
24. Details of his employment history and the observations of the prospective adopter about how this has influenced him.
25. The current employment of the prospective adopter and his views about achieving a balance between employment and child care.

*Status: Point in time view as at 01/04/2007.*

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## **Income**

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

## **Other information**

27. 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.

28. The prospective adopter's –

- (a) reasons for wishing to adopt a child;
- (b) views and feelings about adoption and its significance;
- (c) views about his 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.

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

30. Any other relevant information which might assist the adoption panel or the adoption agency.  
Regulation 25(3)(a)

## **PART 2**

### **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 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.

## SCHEDULE 5

Regulation 35(2)

### ADOPTION PLACEMENT PLAN

1. Whether [<sup>F30</sup>the child is] placed under a placement order or with the consent of the parent or guardian.

#### Textual Amendments

**F30** Words in Sch. 5 para. 1 inserted (30.12.2005) by The Adoption and Children (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3482), regs. 1, 5(s)

2. The arrangements for preparing the child and the prospective adopter for the placement.
3. Date on which it is proposed to place the child for adoption with the prospective adopter.
4. The arrangements for review of the placement.
5. Whether parental responsibility of the prospective adopter for the child is to be restricted, and if so, the extent to which it is to be restricted.
6. Where the local authority has decided to provide adoption support services for the adoptive family, how these will be provided and by whom.
7. The arrangements which the adoption agency has made for allowing any person contact with the child, the form of contact, the arrangements for supporting contact and the name and contact details of the person responsible for facilitating the contact arrangements (if applicable).
8. The dates on which the child's life story book and later life letter are to be passed by the adoption agency to the prospective adopter.
9. Details of any other arrangements that need to be made.
10. Contact details of the child's social worker, the prospective adopter's social worker and out of hours contacts.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations 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 Act”).

Part 2 makes provision for the arrangements for adoption work which adoption agencies (“agencies”) must put in place. Regulation 3 requires agencies to set up adoption panels and regulations 4 and 5 make provision in relation to the tenure of panel members and the proceedings of adoption panels. Agencies are required to appoint an adoption adviser to the adoption panel and medical adviser (regulations 8 and 9) and regulation 10 provides for the establishment of new panels on 30th December 2005 (the date on which these Regulations come into force).

Part 3 applies where an agency is considering adoption for a child. Regulation 12 requires the agency to open a case record in respect of the child. Regulations 13 and 14 require the agency to provide counselling and information for, and ascertain the wishes and feelings of, the child, his

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parent or guardian and others. Regulation 14(3) and (4) make provision for the father of a child who does not have parental responsibility for the child and whose identity is known. If the agency considers it is appropriate it must counsel etc. the father. Regulations 15 and 16 impose duties on an agency to obtain information about the child and his family and others which is specified in Schedule 1. Regulation 17 requires the agency to prepare a written report about the child ("the child's permanence report"). The child's permanence report and certain other information must be sent to the adoption panel. Regulation 18 provides that the adoption panel have to make a recommendation to the agency as to whether the child should be placed for adoption. The agency must take into account that recommendation in coming to a decision about whether the child should be placed for adoption (regulation 19). Regulation 20 provides that the agency must request CAF/CASS to appoint an officer of the Service or the National Assembly for Wales to appoint a Welsh family proceedings officer to witness consent to placement under section 19 of the Act and, as the case may be, to the making of a future adoption order under section 20 of the Act. The information to be provided to CAF/CASS is specified in Schedule 2.

Part 4 makes provision for the assessment of prospective adopters. Regulation 21 requires the agency to provide counselling and information for a prospective adopter. The agency must consider an application by a prospective adopter for an assessment of his suitability to adopt a child (regulation 22). Regulation 23 requires the agency to carry out police checks and provides that an agency may not consider a person suitable to adopt a child if he or any member of his household aged 18 or over has been convicted of, or cautioned for, certain specified offences. The agency must arrange for the prospective adopter to receive preparation for adoption (regulation 24). The agency must obtain certain information and reports in respect of the prospective adopter and prepare a written report (regulation 25 and Schedule 4). The prospective adopter's case must be submitted to the adoption panel who must make a recommendation to the agency as to whether the prospective adopter is suitable to adopt a child (regulation 26). The agency must then make a decision about whether the prospective adopter is suitable to adopt a child (regulation 27). Regulation 29 makes provision for the review and termination of a prospective adopter's approval.

Part 5 makes provision in relation to the duties of the agency in respect of the placement of a child with a prospective adopter. The agency must provide the prospective adopter with the child's permanence report and meet with him to discuss the proposed placement (regulation 31). The proposed placement must be referred to the adoption panel who must consider the proposed placement and make a recommendation to the agency as to whether the child should be placed for adoption with the particular prospective adopter and the agency must take into account that recommendation when coming to its decision (regulations 32 and 33).

Part 6 makes provision in relation to placements and reviews. Regulation 36 provides that the agency must provide the prospective adopter with a placement plan (which must cover the matters specified in Schedule 5) and before the child is placed for adoption send certain information to the persons specified in regulation 35(6). Regulation 36 imposes a duty on the agency to carry out reviews. Regulation 37 requires an agency to appoint an independent reviewing officer. Regulation 38 makes provision in relation to what is to happen when a parent withdraws consent given under section 19 or 20 of the Act.

Part 7 makes general provision in relation to case records.

Part 8 makes miscellaneous provision including modifications to provisions in the Children Act 1989.

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department for Education and Skills' website <http://www.dfes.gov.uk/ria/>.

**Status:**

Point in time view as at 01/04/2007.

**Changes to legislation:**

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