
STATUTORY INSTRUMENTS

2005 No. 389

The Adoption Agencies Regulations 2005

PART 4

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

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(1) 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;
 - (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979(2) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)(3) 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(4) except that it does not include an offence contrary to

(1) 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.

(2) 1979 c. 2.

(3) 1876 c. 36.

(4) 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).

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.