

**EXPLANATORY MEMORANDUM TO:**  
**THE FOSTERING SERVICES (AMENDMENT) REGULATIONS 2008**

**2008 No. 640**

1. This Explanatory Memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by command of Her Majesty.

**2. Description**

2.1. This instrument relaxes a restriction in the Fostering Services Regulations 2002. Where a person who is registered under Part 2 of the Care Standards Act 2000 as the person carrying on a fostering agency is an individual, regulation 24(3)(b)(i) requires that individual to be a member of the agency's fostering panel; however, regulation 24(6) restricts the period for which a person may serve as a member of the panel to two consecutive terms not exceeding three years each. Regulation 2 of this instrument permits an individual who is a fostering panel member pursuant to regulation 24(3)(b)(i) and whose second consecutive term of office expires on or after 31st March 2008 to continue to hold office as a member of that fostering panel for a further period of up to twelve months.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

**4. Legislative background**

4.1. The Fostering Services Regulations 2002, SI 2002/57, made under powers in the Children Act 1989 and the Care Standards Act 2000, govern the conduct of both local authority and independent fostering service providers. Regulation 24 requires the fostering service provider to establish a fostering panel the function of which, under regulation 26, is to make recommendations about the suitability of a person to act as a foster parent.

4.2. Regulation 24(3) provides for the membership of the panel. In addition to at least two social workers with relevant experience (regulation 24(3)(a)) and up to four 'independent' members at least one of whom is or within the previous two years has been a foster parent (regulation 24(3)(d)), regulation 24(3)(b) and (c) requires the panel to include a representative of the management/ownership of the fostering agency. For example, if the fostering agency is a partnership, regulation 24(3)(b)(iii) requires one of the partners to be a member of the panel. Where the 'registered provider', i.e. the person registered under Part 2 of the Care Standards Act 2000 as the person carrying on the agency, is an individual, regulation 24(3)(b)(i) requires that individual to be a panel member.

4.3. Regulation 24(6) provides that no panel member may serve more than two consecutive terms and that a term may not exceed three years. The maximum period of time for which an individual may serve on the panel is therefore six years.

4.4. The Fostering Services Regulations came into force on 1 April 2002.

## **5. Territorial Extent and Application**

This instrument applies to England only.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy Background**

7.1. Regulation 24 of the Fostering Service Regulations 2002 prescribes the arrangements for the establishment of the fostering panel, including the composition of the panel. The aim is to ensure that the panel includes appropriate representation by those with the skills and experience needed to make recommendations on the matters which fall within the panel's remit, such as the suitability of an individual to become a foster carer.

7.2. The Regulations require, for example, that the panel include at least two social workers and at least four independent members, including one who is – or has recently been – a foster carer. In the case of independent agencies, a senior manager is required to sit on the panel: where the registered person is an individual, the regulations require that individual to be a panel member; where the provider is an organisation, at least one of the directors or the 'responsible individual' must be a panel member; and where the registered provider is a partnership, at least one of the partners must be a panel member.

7.3. Where the registered provider is an individual and was appointed to the panel on 1 April 2002, when the Fostering Services Regulations 2002 came into force, their permitted term of office will expire on 31 March 2008 in accordance with regulation 24(6). But regulation 24(3)(b)(i) would nevertheless require the individual to be a fostering panel member. This instrument will therefore, in cases where the registered provider is an individual, permit that individual to remain on the panel for a further year.

7.4. Further amendments are envisaged to the Fostering Services Regulations later this year as a result of the ongoing review of the National Minimum Standards for fostering and other services / settings. It is the Department's intention to consider this matter further as part of that review, and to consult fully on any

changes of substance to the regulations. In the meantime, this instrument will enable fostering panels of the agencies concerned to continue to operate without interruption.

- 7.5. According to information maintained by Her Majesty's Chief Inspector of Education, Children's Services and Skills, there are currently 278 registered independent fostering agencies, of which only 14 are owned by individuals and therefore affected by the anomaly in the existing regulations. Nevertheless it is important that this anomaly is put right in order to ensure that all fostering panels are able to continue to operate smoothly and in line with the spirit of the regulations.
- 7.6. Public interest in the policy is minimal. However, stakeholder organisations are aware of the anomaly and are keen for clarification as to the arrangements which should apply from 1 April 2008.
- 7.7. Whilst there has been no formal consultation on the amendment made by this instrument, the Department has discussed the approach taken informally with key stakeholders.

## **8. Impact**

- 8.1. No regulatory impact assessment has been prepared for this Instrument as it has no impact on business, charities or voluntary bodies.
- 8.2. There is no impact on the public sector.

## **9. Contact**

- 9.1. Kate Lyons at the Department for Children, Schools and Families. Telephone: 020 7273 1286 or email: [kate.lyons@dcsf.gsi.gov.uk](mailto:kate.lyons@dcsf.gsi.gov.uk)