

**2009 No. 1898**

**CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES**

**SOCIAL CARE, ENGLAND AND WALES**

**The Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments)(Amendment) Regulations 2009**

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| <i>Made</i> - - - -                                | <i>15th July 2009</i>    |
| <i>Laid before Parliament</i>                      | <i>16th July 2009</i>    |
| <i>Laid before the National Assembly for Wales</i> | <i>16th July 2009</i>    |
| <i>Coming into force</i> - -                       | <i>12th October 2009</i> |

The Secretary of State for Children, Schools and Families and the Welsh Ministers, acting jointly, make the following Regulations in exercise of powers conferred by section 9(1)(a), section 10(1)(a) and (3)(a) and section 140(7) of the Adoption and Children Act 2002(a):

**Citation, commencement and application**

1. These Regulations may be cited as the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) (Amendment) Regulations 2009 and come into force on 12th October 2009.

**Amendment of the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003**

2.—(1) The Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003(b) are amended as follows.

(2) For paragraph 2 of Schedule 2 (information required in respect of the responsible individual or persons seeking to manage or work for the purposes of an agency) substitute—

“2. Either—

- (a) where the certificate is required for a position that falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002(c), an enhanced criminal

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(a) 2002 c. 38. See section 144(1) for the definitions of “regulations” and “appropriate Minister”. The appropriate Minister for Wales is specified as the National Assembly for Wales. The functions of the Assembly under this Act were transferred to the Welsh Ministers under paragraph 30, Schedule 11 to the Government of Wales Act 2006 (c. 32) and under paragraph 32 of that Schedule, a reference to the National Assembly for Wales is to be read as a reference to the Welsh Ministers.

(b) S.I. 2003/367 to which there are amendments not relevant to these Regulations.

(c) S.I. 2002/233. Regulation 5A was inserted by S.I. 2006/748 and is amended by S.I. 2006/2181, 2007/1892, 2007/3224 and 2008/2143.

record certificate within the meaning of section 113B of the Police Act 1997(a) which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act); or

- (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997.”.

15th July 2009

*Delyth Morgan*  
Parliamentary Under Secretary of State  
Department for Children, Schools and Families

14th July 2009

*Gwenda Thomas*  
Deputy Minister for Social Services  
Under authority of the Minister for Health and Social Services  
One of the Welsh Ministers

### EXPLANATORY NOTE

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

These Regulations amend the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/367) (“2003 Regulations”).

The amendment made reflects the effect of new provisions (sections 113BA and 113BB) that are inserted into the Police Act 1997 (c. 50) by the Safeguarding Vulnerable Groups Act 2006 (c. 47). One of the effects of the new provisions is that, as from 12th October 2009, information as to whether a person is barred from working with vulnerable groups (suitability information) will, from the 12th October 2009, only be provided in prescribed cases where an application for an enhanced criminal record certificate is made under section 113B of the Police Act 1997.

The amendment made in these Regulations relates to provisions in the 2003 Regulations that specify the information that must be available in order for a person to meet the requirements relating to fitness to carry on, manage or work for a registered adoption society. A registered adoption society is defined in section 2 of the Adoption and Children Act 2002 (c. 38).

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(a) 1997 c. 50. Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and is amended by the Safeguarding Vulnerable Groups Act 2006 (c. 47), section 63(1), Schedule 9, paragraph 14(1) and (2). Amendments are also made to section 113A by S.I. 2008/3260, S.I. 2009/203 and section 50(1) and (3)(b) of the Criminal Justice and Immigration Act 2008 (c. 4). Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 and is amended by the Safeguarding Vulnerable Groups Act 2006, section 63(1), Schedule 9, paragraph 14(1) and (3). Amendments are also made to section 113B by S.I. 2009/203 and the Armed Forces Act 2006, section 378(1), Schedule 16, paragraph 149. Section 113BA was inserted by the Safeguarding Vulnerable Groups Act 2006, section 63(1), Schedule 9, paragraph 14(1) and (4). Amendments are made to section 113BA by the Education and Inspections Act 2006 (c. 40), section 170(2) and the Education and Skills Act 2008 (c. 25), section 169, Schedule 1, paragraph 12.

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STATUTORY INSTRUMENTS

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