

2009 No. 2563

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

**The Adoptions with a Foreign Element (Amendment)
Regulations 2009**

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| <i>Made</i> - - - - | <i>22nd September 2009</i> |
| <i>Laid before Parliament</i> | <i>29th September 2009</i> |
| <i>Coming into force</i> - - | <i>23rd October 2009</i> |

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by section 1(1) and (3) of the Adoption (Intercountry Aspects) Act 1999(a).

The Secretary of State has consulted the Welsh Ministers in accordance with section 16(1) of that Act(b).

Citation and commencement

1.—(1) These Regulations may be cited as the Adoptions with a Foreign Element (Amendment) Regulations 2009 and come into force on 23 October 2009.

Amendment of the Adoptions with a Foreign Element Regulations 2005

2.—(1) The Adoptions with a Foreign Element Regulations 2005(c) are amended as follows.

(2) In regulation 19 (procedure following receipt of the Article 16 Information), for paragraph (3) substitute—

“(3) Where—

- (a) the procedure in paragraph (2) has been followed; and
- (b) the prospective adopter has confirmed in writing to the adoption agency that he wishes to proceed to adopt the child,

the agency must notify the relevant Central Authority in writing that the requirements specified in sub-paragraphs (a) and (b) have been satisfied and at the same time it must confirm that it is content for the adoption to proceed.”.

(a) 1999 c.18.

(b) Section 16(1) was amended by the Adoption and Children Act 2002, Schedule 3, paragraph 101 (c.38). By virtue of section 16(1), the Secretary of State must consult the National Assembly for Wales before exercising any functions under section 1. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 (c.32), Schedule 11, paragraph 30 (see also paragraph 32).

(c) S.I. 2005/392; to which there are amendments not relevant to these Regulations.

(3) In regulation 20 (procedure where proposed adoption is not to proceed), in paragraph (3) for “before the child is placed with him” substitute “before any Convention adoption is made and before the child’s entry into the United Kingdom”.

22nd September 2009

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Adoptions with a Foreign Element Regulations 2005 (S.I. 2005/392, “the FERs”) and make provision regarding adoptions under the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at The Hague on 29th May 1993 (“the Convention”), where the United Kingdom is the receiving State.

The Regulations extend to England and Wales and come into force on 23 October 2009.

Regulation 2(2) amends the procedure following receipt of information under Article 16 of the Convention from the Central Authority of the State of origin of the child. The effect of the amendment is to remove a requirement in regulation 19 of the FERs for the prospective adopter to have visited the child in the State of origin and a requirement to confirm various matters in writing to the adoption agency; in practice, this means that the relevant Central Authority may issue at an earlier stage of the process than at present its agreement for the purposes of Article 17(c) of the Convention that the adoption may proceed. Regulation 2(3) makes a consequential amendment to regulation 20 of the FERs which provides for the procedure where the proposed adoption is not to proceed.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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