
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Children Act 1989 (“the 1989 Act”) and the Care Standards Act 2000 (“the 2000 Act”) and apply to Wales only. They—

- (a) replace the Foster Placement (Children) Regulations 1991 (as amended), governing the approval of foster parents and the placement of children with them by local authorities and voluntary organisations under, respectively, Parts III and VII of the 1989 Act; and
- (b) provide a new regulatory framework for fostering agencies and local authority fostering services.

By section 4(4) of the 2000 Act, “fostering agency” means either an undertaking which discharges functions of local authorities in connection with the placing of children with foster parents (in these Regulations called “an independent fostering agency”), or a voluntary organisation which places children with foster parents under section 59(1) of the Children Act (an agency within the meaning of section 4(4)(b)). An independent fostering agency may, but need not, be carried on by a voluntary organisation, and if so, it may in some cases, also be an agency within the meaning of section 4(4)(b).

Part II of the 2000 Act provides for the registration and inspection of establishments and agencies, including fostering agencies, by the National Assembly for Wales (“the National Assembly”). Part III of the 2000 Act provides for the inspection of the fostering functions of local authorities by the National Assembly. Parts II and III of the 2000 Act (so far as not already in force) will be brought into force in relation to fostering agencies and local authority fostering services on 1st April 2003.

These Regulations are intended to establish, so far as possible, a common framework for fostering services, whether provided by local authorities, voluntary organisations, or independent fostering agencies acting under delegation arrangements (“fostering services”).

By regulation 3, each fostering service must have a statement of purpose setting out the aims and objectives of the service and the facilities and services to be provided, and a children’s guide. The fostering service must be carried on in a manner which is consistent with the statement of purpose.

Regulations 5 to 10 make provision about the persons carrying on and managing the fostering service, and require a manager to be appointed for the service (regulations 6 and 10). The fitness of the provider of a fostering agency and of the manager of a fostering service is provided for, in particular by reference to the matters prescribed in Schedule 1. Where the provider of a fostering agency is an organisation, it must nominate a responsible individual who must satisfy the requirements as to fitness. Regulation 8 imposes general requirements in relation to the proper conduct of a fostering service, and as to training.

Part III makes provision about the conduct of a fostering service, in particular, as to child protection, behaviour, contact, health and education, and support for foster parents. Provision is also made about the staffing of fostering services, the fitness of workers and premises, and record keeping. Provision is made as to the promotion of child welfare by, and complaints in respect of, independent fostering agencies (regulations 11 and 18).

Part IV deals with the approval of foster parents by fostering services. It requires a fostering panel to be established in respect of each fostering service (regulations 24 to 26). Regulation 27 sets out the procedure for the assessment of persons wishing to become foster parents, and makes provision as to the circumstances in which persons may not be considered suitable to act as foster parents. Regulations 28 and 29 provide for the approval, review of approval and termination of approval of foster parents. Regulations 30 to 32 provide for records and a register to be kept.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part V deals with the placement of children with foster parents by local authorities and voluntary organisations (“responsible authorities”). Regulations 33 to 36 impose general requirements on responsible authorities as to the making, supervision and termination of placements, and regulations 37 and 38 make specific provision about short-term placements, and emergency and immediate placements by local authorities. Relations between a local authority and an independent fostering agency are governed by regulation 40.

Part VI (regulation 41) provides for visits to be made by an officer of the local authority to children who are placed with foster parents by voluntary organisations (section 62 of the 1989 Act).

Part VII makes miscellaneous provision regarding fostering agencies. The registered person is required to monitor the matters set out in Schedule 7 relating to the quality of care provided (regulation 42), and to give notice of the events listed in Schedule 8 to the persons mentioned in that Schedule (regulation 43). Regulation 44 imposes requirements relating to the agency’s financial position. Regulations 45 to 47 provide for the giving of notices to the National Assembly and the appointment of liquidators.

Regulation 48 provides for offences in relation to fostering agencies.

Regulations 50 & 51 make the necessary amendments to the provisions in regulations concerning registration requirements and payment of fees in line with other establishments and agencies regulated under the 2000 Act.

Regulation 52 makes transitional provision. These Regulations apply to local authority fostering services on their coming into force. By regulation 52(1) and (2) they will also apply to a voluntary organisation which places children with foster parents under section 59 of the 1989 Act, which has duly applied to the National Assembly for registration as a fostering agency by 1st April 2003. These Regulations do not apply to an independent fostering agency until it is registered, but sub-paragraphs (3) to (5) of this regulation allow a local authority to delegate certain duties to an independent fostering agency which has by 1st April 2003 applied to the National Assembly for registration. Regulation 52(7) disapplies regulation 20(5) (which limits the circumstances in which a person who is approved as a foster parent by a fostering service may also be employed to work for the purposes of the service), in certain cases.