
WELSH STATUTORY INSTRUMENTS

2006 No. 3100

**The Independent Review of Determinations
(Adoption) (Wales) Regulations 2006**

PART 3

PROCEDURE

Application for review of qualifying determination

12.—(1) An application to the National Assembly for a review of a qualifying determination must be made by the applicant in writing and include the grounds of the application.

(2) In the case of a suitability determination only a prospective adopter may within 20 working days beginning with the date on which a notification was sent by the adoption agency of the qualifying determination in relation to him or her, make a request to the National Assembly for a panel to be constituted to review that determination.

Appointment of panel and conduct of review

13. Upon receipt of an application which has been made in accordance with regulation 12, the National Assembly must—

- (a) Within 5 working days notify the adoption agency which made the qualifying determination that the application has been made by sending to the agency a copy of the application;
- (b) Within 5 working days send a written acknowledgment of the application to the applicant and notify the applicant of the steps taken under sub-paragraph (a);
- (c) Within 25 working days appoint a panel in accordance with regulation 4 and fix a date, time and venue for the panel to meet for the purpose of a review meeting;
- (d) After taking the steps prescribed in sub-paragraph (c), and no less than 5 working days before the date fixed for review, inform in writing the applicant and the adoption agency which made the qualifying determination of—
 - (i) the appointment of the panel; and
 - (ii) the date, time and venue of the review meeting;

(2) The date fixed for the review will be no later than 3 months of the receipt of the application by the Assembly.

(3) The National Assembly must ensure that the panel receives all relevant papers relating to the review as soon as possible but no less than 5 working days before the date fixed for the review.

Recommendation of panel

14.—(1) Where the panel's recommendation is not unanimous the recommendation must be that of the majority.

- (2) The recommendation may be made and announced at the end of the review or reserved.
- (3) The recommendation and the reasons for it and whether it was unanimous or that of a majority must be recorded without delay in a document signed and dated by the chair.
- (4) The National Assembly must without delay and in any event no later than 10 working days after the date on which the recommendation is made send a copy of the recommendation and the reasons for it to the applicant and to the adoption agency which made the qualifying determination.

Order for payment of costs

15. The panel may make an order for the payment by the adoption agency by which the qualifying determination reviewed was made of such costs as the panel considers reasonable.

Amendment of the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005

16.—(1) The Access to Information (Post Commencement Adoptions) (Wales) Regulations 2005 are amended in accordance with the following provisions of this regulation.

- (2) In regulation 2, at the appropriate place insert—
 - ““appropriate adoption agency” has the same meaning as in section 65(1) of the Act.
 - “National Assembly” means the National Assembly for Wales”
- (3) After regulation 13 (Record of Views) there is to be inserted the following regulation—

“Independent Review—

13A.—(1) The following determinations by the appropriate adoption agency in relation to an application under section 61 of the Act are qualifying determinations for the purposes of section 12 of the Act (independent review of determinations)—

- (a) not to proceed with an application from any person for disclosure of protected information;
 - (b) to disclose information to an applicant about a person when that person has withheld consent to the disclosure of the information;
 - (c) not to disclose information about a person to the applicant where that person has given consent to the disclosure of information.
- (2) The adoption agency must give the relevant person written notification of the determination, which must—
 - (a) state the reasons for it; and
 - (b) advise the relevant person that he or she may apply to the National Assembly within 20 working days, beginning with the date on which the notification was sent, for a review by an independent review panel of the qualifying determination.
 - (3) If the adoption agency receives notification from the National Assembly that the relevant person has applied for a review by an independent review panel of the qualifying determination, the agency must, within 10 working days of receipt of that notification, send to the National Assembly—
 - (a) a copy of the application for disclosure of information;
 - (b) a copy of the notification given under paragraph (2);
 - (c) the record of any views obtained by the agency under section 61(3) of the Act; and
 - (d) any additional information requested by the panel.

- (4) The adoption agency must not take any action in accordance with its original determination before—
- (a) the independent review panel has made its recommendation; or
 - (b) if the person has not applied for a review within that 20 working day period, the end of that period.
- (5) The adoption agency must have regard to any recommendation of the independent review panel in deciding whether to proceed with its original determination.
- (6) In paragraph (3)—
- (a) the reference to an independent review panel is to a panel constituted for the purposes of section 12 of the Act; and
 - (b) “working day” means any day other than a Saturday or Sunday, Christmas day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.
- (7) In this regulation “the relevant person” is—
- (a) in the case of a qualifying determination mentioned in paragraph (1)(a) or (c), the applicant;
 - (b) in the case of a qualifying determination mentioned in paragraph (1)(b) or (c), the person the protected information is about.”

Cases in progress under the Independent Review Regulations 2005 on the appointed day

17.—(1) In relation to any application by a prospective adopter for a review of a qualifying determination made before the appointed day, any action or decision taken before the appointed day under a provision of the Independent Review Regulations 2005 must on or after the appointed day, be treated as if it were an action or decision under the corresponding provision of these Regulations.

(2) In the regulation “appointed day” means 31 December 2006.

Revocation

18. The Independent Review of Determinations (Adoption) (Wales) Regulations 2005(1) is hereby revoked.