
WELSH STATUTORY INSTRUMENTS

2010 No. 746

**The Independent Review of Determinations
(Adoption and Fostering) (Wales) Regulations 2010**

PART 1

GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Independent Review of Determinations (Adoption and Fostering)(Wales) Regulations 2010.

(2) They come into force on 2 April 2010.

(3) These Regulations apply to Wales.

Interpretation

2. In these Regulations —

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989;

“the 2002 Act” (“*Deddf 2002*”) means the Adoption and Children Act 2002;

“the Agencies Regulations” (“*y Rheoliadau Asiantaethau*”) means the Adoption Agencies (Wales) Regulations 2005(1);

“adoption panel” (“*panel mabwysiadu*”) means a panel constituted in accordance with regulation 3 of the Agencies Regulations;

“adoption suitability determination” (“*penderfyniad ar addasrwydd i fabwysiadu*”) means a qualifying determination described in regulation 3(a);

“applicant” (“*ceisydd*”) means —

(a) in the case of an adoption suitability determination, a prospective adopter;

(b) in the case of a disclosure determination, a relevant person within the meaning of regulation 13A(7) of the Disclosure Regulations;

(c) in the case of a fostering determination, a person to whom notice has been given for the purposes of regulation 28(6)(a) of the Fostering Regulations;

“the central list” (“*y rhestr ganolog*”) is to be construed in accordance with regulation 5;

“disclosure determination” (“*penderfyniad ar ddatgelu*”) means a qualifying determination described in regulation 13A(1) of the Disclosure Regulations(2);

(1) S.I.2005/1313 (W.95) as amended by S.I.2006/362 (W.48), S.I.2009/1891 and S.I.2009/2541 (W.205).

(2) Regulation 13A (1) of the Disclosure Regulations specifies the following determinations by the appropriate adoption agency in relation to an application under section 61 of the 2002 Act (a) not to proceed with an application from any person for the 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; and (c) not to disclose information about a person to the applicant where that person has given consent to the disclosure of information.

“the Disclosure Regulations” (“*y Rheoliadau Datgelu*”) means the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005(3);

“foster parent” (“*rhiant maeth*”) has the meaning given in regulation 2(1) of the Fostering Regulations;

“fostering determination” (“*penderfyniad ar faethu*”) means a qualifying determination of a description prescribed in regulation 4;

“fostering panel” (“*panel maethu*”) means a panel constituted in accordance with regulation 24 of the Fostering Regulations;

“fostering service provider” (“*darparpwydd gwasanaeth maethu*”) has the meaning given in regulation 2(1) of the Fostering Regulations;

“the Fostering Regulations” (“*y Rheoliadau Maethu*”) means the Fostering Services (Wales) Regulations 2003(4);

“the Independent Review Regulations 2006” (“*Rheoliadau Adolygu Annibynnol 2006*”) means the Independent Review of Determinations (Adoption) (Wales) Regulations 2006(5);

“organisation” (“*sefydliad*”) means an adoption agency or a fostering service provider as the case may be;

“panel” (“*panel*”) means a panel constituted in accordance with regulation 6, 7 or 8 as the case may be;

“prospective adopter’s report” (“*adroddiad darpar fabwysiad*”) means a report prepared in accordance with regulation 26 of the Agencies Regulations;

“qualifying determination” (“*penderfyniad cymhwysol*”) means a determination described in regulations 3 and 4;

“social worker” (“*gweithiwr cymdeithasol*”) means a person who is registered as a social worker in a register maintained by the General Social Care Council or the Care Council for Wales under section 56 of the Care Standards Act 2000 or in a corresponding register maintained under the law of Scotland or Northern Ireland; and

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, Sunday, Christmas day, Good Friday or a day which is a bank holiday with the meaning of the Banking and Financial Dealings Act 1971(6).

Qualifying determination — prescribed description for the purposes of section 12(2) of the 2002 Act

3. For the purposes of section 12(2) of the 2002 Act, a qualifying determination is —
 - (a) a determination that has been made by an adoption agency in accordance with the Agencies Regulations as follows —
 - (i) where under regulation 28(4) of the Agencies Regulations the agency does not propose to approve a prospective adopter as suitable to be an adoptive parent;
 - (ii) where the agency considers that a prospective adopter is no longer suitable to be an adoptive parent following a review under regulation 30 of the Agencies Regulations; or
 - (b) a determination described in regulation 13A(1) of the Disclosure Regulations.

(3) S.I. 2005/2689 (W.189) as amended by S.I.2006/3100 (W.284) and S.I. 2009/1892.

(4) S.I. 2003/237 (W.35) as amended by S.I. 2003/896 (W.116), S.I. 2004/1016 (W.113), S.I. 2005/3302 (W.256), S.I. 2006/878 (W.83), S.I. 2006/3251 (W.295) and S.I. 2009/2541 (W.205).

(5) 2006/3100 (W.284).

(6) 1971.c.80.

Qualifying determination — prescribed descriptions for the purposes of paragraph 12A(2)(b) of Schedule 2 to the 1989 Act

4. For the purposes of paragraph 12A(2)(b) of Schedule 2 to the 1989 Act the following descriptions of determinations are prescribed —

- (a) a determination (other than a determination made pursuant to regulation 27(6) of the Fostering Regulations) that the fostering service provider proposes not to approve a person as suitable to act as a foster parent in accordance with regulation 28(6) of the Fostering Regulations, and
- (b) a determination (other than a determination made pursuant to regulation 27(6) of the Fostering Regulations) that the fostering service provider proposes to terminate, or to revise the terms of, the approval of a person as suitable to act as a foster parent in accordance with regulation 29(7) of the Fostering Regulations, where notice of the determination is given on or after 2 April 2010.