
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Wales) Regulations 2005 (“the 2005 Regulations”), which make provision under section 98 of the Adoption and Children Act 2002 for the purpose of assisting persons adopted before 30 December 2005 to obtain information about their adoption and to facilitate contact between those persons and their birth relatives.

Regulations 4 and 5 of the 2005 Regulations, which set out the services that an intermediary agency may provide and applications that such agencies may accept, are amended to provide that intermediary agencies may accept applications from a person with a prescribed relationship (as defined in the new regulation 2A) to an adopted person for assistance in contacting a relative of an adopted person and vice versa (regulations 3 and 4).

Regulation 5A is inserted into the 2005 Regulations to prescribe the circumstances in which an intermediary agency must not proceed with an application and to set out the circumstances in which a veto registered under regulation 8 of the 2005 Regulations will apply (regulation 7).

Regulation 8 of the 2005 Regulations is amended to provide that an adopted person’s veto also applies when the subject of an application is a person with a prescribed relationship to the adopted person (regulation 8).

Regulation 9 of the 2005 Regulations is amended so that the 2005 Regulations do not prevent an intermediary agency from disclosing information that is not identifying information to an applicant if the agency considers that it would be appropriate to do so (regulation 9).

Regulation 10 of the 2005 Regulations is amended to require an intermediary agency to provide written information about the availability of counselling to an adopted person who is considering whether to consent to an application proceeding (regulation 10).

Regulation 11 of the 2005 Regulations is amended to require an intermediary agency to take reasonable steps to confirm that the applicant does have a prescribed relationship when it receives an application from such a person (regulation 11).

Regulation 12 of the 2005 Regulations is amended to require the intermediary agency to ascertain from the appropriate adoption agency whether the adopted person has at any time expressed his or her views about contact and to require the intermediary agency to seek other information from the appropriate adoption agency. It is also amended to require adoption agencies in Wales to take reasonable steps to provide relevant information to intermediary agencies in England (regulation 12).

Regulation 13 of the 2005 Regulations is amended to enable the intermediary agency to request any or all of the information listed in that regulation at the same time. It also enables the intermediary agency, if it is proceeding with an application from a person with a prescribed relationship to the adopted person, to request information from the register of live births (regulation 13).

Regulation 16 of the 2005 Regulations is amended to enable an intermediary agency to disclose information (including information that identifies any person) as is necessary to the adopted person to enable him or her to make an informed decision about whether to consent to an application proceeding (regulation 15).

Regulation 18 of the 2005 Regulations is amended in relation to the fees payable by an intermediary agency requesting information from the Registrar General. Previously, a fee of £10 was payable in respect of information provided. A new fee of £36 is payable for processing an

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initial request for information under regulation 13 or 14 of the 2005 Regulations, which is payable whether or not any information is located and provided, and irrespective of how much information is provided. A further fee of £14 is payable in respect of each subsequent request for information, but only where information is provided (regulation 16).

An impact assessment has not been produced for this instrument as it has a minimal impact on businesses, civil society organisations and on the public sector.