WELSH STATUTORY INSTRUMENTS

2005 No. 1313 (W.95)

CHILDREN AND YOUNG PERSONS, WALES
SOCIAL CARE, WALES

The Adoption Agencies (Wales) Regulations 2005

Made - - - - 10 May 2005

Coming into force - - 30 December 2005

The National Assembly for Wales in exercise of the powers conferred by sections 26(1) to (2B), 59(4)(a) and (5) and 104(4) of the Children Act 1989(**1**) and sections 9(1)(a), 11(1)(b), 27(3), 45(1) and (2), 53, 54 and 140(7) and (8) and 142(4) and (5) of the Adoption and Children Act 2002(**2**) hereby makes the following Regulations:

PART 1
GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Adoption Agencies (Wales) Regulations 2005 and come into force on 30 December 2005.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations —

"the Act" ("*y Ddeddf*") means the Adoption and Children Act 2002;

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989;

"adoption agency" ("*asiantaeth fabwysiadu*") has the meaning given in section 2(1) of the Act ;

"adoption panel" ("*panel mabwysiadu*") means a panel established in accordance with regulation 3;

"adoption placement plan" ("*cynllun lleoliad mabwysiadu*") has the meaning given in regulation 36;

(**1**) 1989 c. 41.
(**2**) 2002 c. 38.

"adoption service" ("*gwasanaeth mabwysiadu*") has the meaning given in section 2(1) of the Act;

"adoption support services" ("*gwasanaethau cymorth mabwysiadu*") has the meaning given in section 2(6) of the Act and in regulations made under section 2(6)(b) of the Act;

"agency adviser" ("*cynghorydd asiantaeth*") has the meaning given in regulation 8;

"CAFCASS" means the Children and Family Court Advisory and Support Service(**3**);

"employed" ("*cyflogi/cyflogaeth*") in these regulations includes employment under a contract of service or a contract for services, or otherwise than under a contract and whether or not for payment;

"independent person " ("*person annibynnol*") in relation to an adoption panel has the meaning given in regulation 3;

"independent review panel" ("*panel adolygu annibynnol*") means the panel constituted under section 12 of the Act;

"joint adoption panel" ("*panel mabwysiadu ar y cyd*") means an adoption panel established in accordance with regulation 3(5);

"medical adviser" ("*cynghorydd meddygol*") means the person appointed as the medical adviser by the adoption agency in accordance with regulation 9;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"notify" ("*hysbysu*") means notify in writing;

"parent" ("*rhiant*") means, in relation to a child, any parent who has parental responsibility for the child under the 1989 Act;

"placement plan" ("*cynllun lleoliad*") has the meaning given in regulation 36(2);

"proposed placement" ("*lleoliad arfaethedig*") has the meaning given in regulation 32(1);

"qualifying determination" ("*dyfarniad cymwys*") has the meaning given in regulation 28(4)(a);

"registered adoption society" ("*cymdeithas fabwysiadu gofrestredig*") has the meaning given in section 2(2) of the Act;

"registration authority" ("*awdurdod cofrestru*") means the National Assembly for Wales(**4**);

"relevant foreign authority" ("*awdurdod tramor perthnasol*") means a person, outside the British Islands performing functions in the country in which the child is, or in which the prospective adopter is habitually resident, which correspond to the functions of an adoption agency or to the functions of the Secretary of State in respect of adoptions with a foreign element;

"section 83 case" ("*achos adran 83*") means a case where a person intends to bring, or to cause another to bring, a child into the United Kingdom in circumstances where section 83 of the Act (restrictions on bringing children into the United Kingdom) applies;

"social worker" ("*gweithiwr cymdeithasol*") means a person who is registered as a social worker in a register maintained by the Care Council for Wales or the General Social Care Council under section 56 of the Care Standards Act 2000(**5**) or in a corresponding register maintained under the law of Scotland or Northern Ireland;

"social services functions" ("*swyddogaethau gwasanaethau cymdeithasol*") has the meaning given in section 1A of the Local Authority Social Services Act 1970;

(**3**) *See* section 11 of the Criminal Justice and Court Services Act 2000 c. 43.
(**4**) *See* section 5 of the Care Standards Act 2000 c. 14.
(**5**) 2000 c. 14.

"Welsh family proceedings officer" ("*swyddog achosion teuluol ar gyfer Cymru*") has the meaning given in section 35(4) of the Children Act 2004 (**6**); 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 within the meaning of the Banking and Financial Dealings Act 1971(**7**).

PART 2

ADOPTION AGENCY — ARRANGEMENTS FOR ADOPTION WORK

Establishment of adoption panel

3.—(1) Subject to paragraph (5), the adoption agency must establish at least one panel, to be known as the adoption panel, in accordance with this regulation.

(2) The adoption agency must appoint to chair the panel a person, not being a person who has been an elected member, trustee, director or employee of the agency within the last 12 months, who has the skills and experience necessary for chairing the adoption panel.

(3) Subject to paragraph (5), the adoption panel must consist of no more than ten members, including the person appointed under paragraph (2), and must include —

(a) two social workers;

(b) in the case of a registered adoption society a person who is a director, manager or other officer of the agency and is concerned in the management of the agency;

(c) in the case of a local authority, one elected member of the authority;

(d) the person appointed as the medical adviser to the agency in accordance with regulation 9, (or one of them if more than one medical adviser is appointed), for so long as that person is the medical adviser;

(e) at least three other persons (in this regulation referred to as "independent persons") including where reasonably practicable at least two persons with personal experience of adoption.

(4) The adoption agency must appoint two members of the adoption panel either of whom will act as chair if the person appointed to chair the panel is absent or their office is vacant ("the vice chair").

(5) The adoption panel may be established jointly by any two but not more than three local authorities ("joint adoption panel") and where a joint adoption panel is established—

(a) the maximum number of persons who may be appointed to that panel is eleven;

(b) each local authority must appoint two persons to the panel, one of whom must be a social worker and the other who must be an elected member of that authority;

(c) by agreement between the local authorities there must be appointed —

(i) a person to chair the panel who is not an elected member of any of the local authorities whose panel it is and who has the skills and experience necessary for chairing the adoption panel;

(ii) at least three independent members including where reasonably practicable at least two persons with personal experience of adoption;

(iii) two members of the panel either of whom will act as chair if the person appointed to chair the panel is absent or their office is vacant ("the vice chair").

(**6**) 2004 c. 31.
(**7**) 1971 c. 80.

(iv) the medical adviser to one of the authorities.

(6) A person must not be appointed as an independent person on the adoption panel if that person—

(a) is or has been within the last year employed —

(i) in the case of a registered adoption society, by that agency; or

(ii) in the case of a local authority, by that authority to carry out any of the social services functions of that authority;

(b) is or has been within the last year in the case of a local authority an elected member of that authority;

(c) is or has been within the last year in the case of a registered adoption society a trustee or concerned in the management of that agency;

(d) is an adoptive parent with whom the agency has placed a child for adoption or whom the agency have approved as suitable to be an adoptive parent unless at least two years have elapsed since the adoption order was made in respect of the child;

(e) is related —

(i) in the case of a registered adoption society, to a person employed by that agency ; or

(ii) in the case of a local authority, to a person employed by that authority to carry out any of the social services functions of that authority.

(7) For the purposes of paragraph (6)(e) a person ("person A") is related to another person ("person B") if person A is —

(a) a member of the household of, or married to or the civil partner of, person B;

(b) the son, daughter, mother, father, sister or brother of person B; or

(c) the son, daughter, mother, father, sister or brother of the person to whom person B is married or with whom B has formed a civil partnership.

Tenure of office of members of the adoption panel

4.—(1) Subject to the provisions of this regulation and regulation 10, a member of the adoption panel must not hold office for a term exceeding 5 years, and may not hold office for the adoption panel of the same adoption agency for more than two consecutive terms without an intervening period of at least three years.

(2) The medical adviser member of the adoption panel must hold office only for so long as their appointment under regulation 9.

(3) A member of the adoption panel may resign office at any time by giving one month's notice in writing to the adoption agency.

(4) Where the adoption agency is of the opinion that any member of the adoption panel is unsuitable or unable to remain in office, their office may be terminated at any time by giving that member notice in writing with reasons.

(5) Termination of the appointment of a member of a joint adoption panel under paragraph (4) must have the agreement of all the local authorities whose panel it is.

Meetings of adoption panel

5.—(1) Subject to paragraph (2), no business is to be conducted by the adoption panel unless at least five of its members, including the person appointed to chair the panel or one of the vice chairs, and at least one of the social workers and at least one of the independent persons, meet as the panel.

(2) In the case of a joint adoption panel, no business is to be conducted unless at least six of its members, including the person appointed to chair the panel or one of the vice chairs, and at least one social worker, and at least one of the independent persons, meet as the panel.

(3) The adoption panel must make a written record of its proceedings, its recommendations and the reason for its recommendations.

Payment of fees — chair or independent person on local authority adoption panel

6. A local authority may pay to a person appointed to chair, or to any independent person on, their adoption panel or joint adoption panel such fee as that local authority may determine, being a fee of a reasonable amount.

Adoption agency arrangements for adoption work

7. The adoption agency must, in consultation with the adoption panel and, to the extent specified in regulation 9(2), with the agency's medical adviser, prepare and implement written policy and procedural instructions governing the exercise of the agency's and the panel's functions in relation to adoption and such instructions must be kept under review and, where appropriate, revised by the agency.

Requirement to appoint an agency adviser to the adoption panel

8. The adoption agency must appoint a senior member of staff, or in the case of a joint adoption panel the local authorities whose panel it is must by agreement appoint a senior member of staff of one of them, (to be known as the "agency adviser") with such qualifications, skills and experience as the agency considers appropriate —

(a) to assist the agency with the appointment (including re-appointment), termination and review of appointment of members of the adoption panel;

(b) to be responsible for the induction and training of members of the adoption panel;

(c) to be responsible for the administration of the adoption panel including assisting with liaison between the agency and the adoption panel and monitoring the performance of members of the adoption panel; and

(d) to give such advice to the adoption panel as the panel may request in relation to any case or generally.

Requirement to appoint a medical adviser

9.—(1) The adoption agency must appoint at least one registered medical practitioner to be the agency's medical adviser.

(2) The adoption agency's medical adviser must be consulted in relation to the arrangements for, access to, and disclosure of, health information which is required or permitted by virtue of these Regulations.

Establishment of new adoption panels on 30 December 2005

10.—(1) All members of an adoption panel established before 30 December 2005 (referred to in this regulation as the "old adoption panel") will cease to hold office on that date.

(2) With effect from 30 December 2005, the adoption agency must establish a new adoption panel in accordance with regulations 3 and 4.

(3) Where a member of an old adoption panel ceases to hold office under paragraph (1) and whether that member's term of office was extended by the adoption agency in accordance with