STATUTORY RULES OF NORTHERN IRELAND

2010 No. 289

HEALTH AND PERSONAL SOCIAL SERVICES

The Voluntary Adoption Agencies Regulations (Northern Ireland) 2010

Made - - - - 3rd September 2010

Coming into operation 29th October 2010

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred by Articles 10 (1) and (1A) of the Adoption (Northern Ireland) Order 1987 (**1**) and Articles 17 (2), 30, 31, 32 and 48 (2) of the Health and Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (**2**), makes the following Regulations:

PART I

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Voluntary Adoption Agencies Regulations (Northern Ireland) 2010 and shall come into operation on the 29th October 2010.

Interpretation

2.—(1) In these Regulations—

"the Order" means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"agency" means a voluntary adoption agency;

"complaints procedure" shall be constructed in accordance with regulation 12 (1);

"manager" shall be construed in accordance with regulation 7 (1) (a);

"organisation" means a body corporate;

"registered provider" means in relation to an agency, a person who is registered under Part III of the Order as the person carrying on the agency;

(**1**) S.I.1987 No.2203 (N.I.22) Article 10 (1A) is inserted by Schedule 4 to S.I. 2003/431 (N.I.9)
(**2**) S.I. 2003 No 431 (N.I.9)

"RQIA" means the Health and Social Care Regulation and Quality Improvement Authority(**3**);

"responsible individual" shall be construed in accordance with regulation 6 (2);

"statement of purpose" means the written statement compiled in accordance with regulation 4 (1).

(2) In these Regulations, references to employing a person include employing a person whether or not for payment, and whether under a contract of service or a contract for services, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

Application for registration under Part III of the Order

3. No application for registration under Part III of the Order shall be made in respect of an agency which is an unincorporated body.

Statement of Purpose

4.—(1) The registered provider and the manager shall compile in relation to the agency a written statement (in these regulations referred to as "the statement of purpose") which shall consist of a statement as to the matters listed in Schedule 1.

(2) The registered provider and the manager shall provide a copy of the statement of purpose to the RQIA.

(3) The registered provider and the manager shall make a copy of the statement of purpose available, upon request, for inspection by—

(a) any person working for the purposes of the agency;

(b) children who may be adopted, their parents and guardians;

(c) persons wishing to adopt a child;

(d) adopted persons, their parents, natural parents and former guardians;

(e) any HSC Trust ;

(4) Subject to paragraph (5), the registered provider and the manager shall ensure that the agency is at all times conducted in a manner which is consistent with its statement of purpose.

(5) Nothing in paragraph (4) shall require or authorise the registered provider or the manager to contravene, or not to comply with—

(a) any other provision of these Regulations;

(b) any conditions for the time being in force in relation to the registration of the registered provider under Part III of the Order.

Review of statement of purpose

5. The registered provider and the manager shall keep under review and, where appropriate, revise the statement of purpose and notify the RQIA of any such revision within 28 days.

(**3**) Renamed under the Health and Social Care Reform Act (Northern Ireland) 2009 (c.1.(N.I))

PART II

REGISTERED PROVIDERS, RESPONSIBLE INDIVIDUALS AND MANAGERS

Fitness of registered provider

6.—(1) An organisation shall not carry on an agency unless it is fit to do so.

(2) An organisation is not fit to carry on an agency unless—

(a) it has given notice to the RQIA of the name, address and position in the organisation of an individual (in these Regulations referred to as "the responsible individual") who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the agency;

(b) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that—

(a) he is of integrity and good character;

(b) he is physically and mentally fit to carry on the agency; and

(c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

Appointment of manager

7.—(1) The registered provider shall appoint—

(a) an individual to manage the agency (in these regulations referred to as "the manager");

(2) the registered provider shall forthwith notify the RQIA of—

(a) the name of any person appointed in accordance with this regulation; and

(b) the date on which the appointment is to take effect.

Fitness of manager

8.—(1) The registered provider shall not allow a person to manage the agency unless he is fit to do so.

(2) A person is not fit to manage an agency unless—

(a) he is of integrity and good character;

(b) having regard to the size of the agency and the agency's statement of purpose—

(i) he has the qualifications, skills and experience necessary for managing the agency; and

(ii) he is physically and mentally fit to manage the agency; and

(c) full and satisfactory information is available in relation to him in respect of each of the matters listed in Schedule 2.

Registered provider and manager – general requirements

9.—(1) The registered provider and the manager shall, having regard to—

(a) the size of the agency and the agency's statement of purpose; and

(b) the need to safeguard and promote the welfare of children who may be, or have been, placed for adoption by the agency;

carry on or manage the agency, with sufficient care, competence and skill.

(2) The registered provider shall ensure that the responsible individual undertakes from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the agency.

(3) The registered provider shall ensure that the manager undertakes from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the agency.

Notification of offences

10. Where the registered provider, responsible individual or manager is convicted of any criminal offence, or there are prosecutions pending, whether in Northern Ireland or elsewhere, he shall forthwith give notice in writing to the RQIA.

(a) the date and place of the conviction ;

(b) the offence of which he was convicted;

(c) the penalty imposed on him in respect of the offence; and

(d) the details of the offences pending.

PART III

CONDUCT OF AGENCIES

Arrangements for the protection of children

11.—(1) The registered provider and the manager shall prepare and implement a written policy which—

(a) is intended to safeguard from abuse or neglect, children who are or may be placed for adoption—

(i) by the agency; or

(ii) by another agency but with prospective adopters approved by the agency as suitable to be adoptive parents in accordance with the Adoption Agencies Regulations (Northern Ireland) 1989(**4**); and

(b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

(2) The procedure under paragraph (1) (b) shall provide in particular for:

(a) liaison and co-operation with any HSC Trust which is, or may be, making child protection enquiries in respect of the child;

(b) where the child is placed with prospective adopters, the prompt referral to the HSC Trust in whose area the child is placed of any allegation of abuse or neglect;

(c) where the child is not placed with prospective adopters, the prompt referral to the HSC Trust in whose area the agency is located of any allegation of abuse or neglect;

(d) notification to the RQIA of the instigation and outcome of any child protection enquiries;

(e) written records to be kept of any allegation of abuse or neglect and the action taken in response;

(f) consideration to be given to the measures that may be necessary to protect any child following an allegation of abuse or neglect;

(**4**) S.R. 1989 No. 253

(g) arrangements to be made for persons working for the purposes of the agency, prospective adopters, adopters and any children to have access to information that would enable them to contact—

(i) the HSC Trust referred to in sub-paragraph (b) or (c) (as the case may be); and

(ii) the RQIA regarding any concern about child welfare or safety.

(3) In this regulation "child protection enquiries" means any enquiries carried out by a HSC Trust in the exercise of any of its functions conferred by or under the Children (Northern Ireland) Order 1995(**5**).

Complaints

12.—(1) The registered provider and the manager shall establish a written procedure for considering complaints (referred to in these Regulations as "the complaints procedure") made by or on behalf of—

(a) children who may be adopted;

(b) parents or guardians of such children; and

(c) adopted persons, their parents, natural parents and former guardians.

(2) The complaints procedure shall, in particular, provide—

(a) for an opportunity for informal resolution of a complaint at an early stage;

(b) that no person who is the subject of a complaint takes part in its consideration other than, if the registered provider or the manager considers it appropriate, at the informal resolution stage only;

(c) for dealing with complaints about the registered provider, the responsible individual or the manager; and

(d) for complaints to be made by a person acting on behalf of a child.

(3) The registered provider and the manager shall provide a copy of the complaints procedure to every person working for the purposes of the agency and shall provide, upon request, a copy of the procedure to any person mentioned in paragraph (1) (a) to (c).

(4) The copy of the complaints procedure supplied under paragraph (3) shall include—

(a) the name, address and telephone number of the RQIA; and

(b) details of the procedure (if any) which has been notified to the registered provider by the RQIA for the making of complaints to the RQIA that relate to the agency.

Complaints – further requirements

13.—(1) The registered provider and the manager shall ensure that any complaint made under the complaints procedure is fully investigated.

(2) The registered provider and the manager shall, so far as is reasonably practicable, within a period of 28 days beginning on and including the date on which the complaint is received by the agency, inform the complainant of the outcome of the investigation and the action (if any) that is to be taken in consequence.

(3) The registered provider and the manager shall ensure that a written record is made of any complaint, including details of the investigation made, the outcome and any actions taken in consequence, and for that record to be retained for at least 10 years from the date that it is made.

(4) The registered provider and the manager shall take all reasonable steps to ensure that—

(**5**) S.I.1995 No.755 (N.I.2)