STATUTORY RULES OF NORTHERN IRELAND

2003 No. 16

ADOPTION

The Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003

Made - - - - 13th January 2003

Coming into operation 1st June 2003

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred on it by section 1(1), (3) and (5) of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001(**2**) and Articles 10 and 16A(**3**) of the Adoption (Northern Ireland) Order 1987(**4**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 and shall come into operation on 1st June 2003.

Interpretation

2. In these Regulations–

"the 1987 Order" means the Adoption (Northern Ireland) Order 1987;

"the Act" means the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001;

"the Adoption Agencies Regulations" means the Adoption Agencies Regulations (Northern Ireland) 1989(**5**) subject to the modifications set out in Schedule 4;

(**1**) *See* S.I.1999/283 (N.I. 1) Article 3(6)
(**2**) 2001 c. 11 (N.I.). Section 1 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 enables the Department to make regulations to give effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29 May 1993
(**3**) Article 16A was inserted by Section 3 of 2001 c. 11 (N.I.)
(**4**) S.I. 1987/2203 (N.I. 22) – as amended by S.I. 1994/429 (N.I. 2), S.I. 1995/755 (N.I. 2) and 2001 c. 11 (N.I.)
(**5**) S.R. 1989 No. 253; relevant amending Regulations are S.R. 1994 No. 65

"adoption agency" means an HSS trust or a registered adoption society which is an accredited body for the purposes of the Convention(**6**);

"adoption panel" means a panel established in accordance with Regulation 5 or 5A of the Adoption Agencies Regulations;

"British Islands" has the same meaning as in Article 58ZA of the 1987 Order;

"Central Authority"(**7**) means the Department of Health, Social Services and Public Safety;

"contact order" has the same meaning as in Article 8(1) of the Children (Northern Ireland) Order 1995(**8**);

"Education and Library Board" means a board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(**9**);

"eligible to adopt", except in regulation 6(4)(a), has the meaning given in regulation 4(1);

"entry clearance" has the same meaning as in the Immigration Act 1971(**10**);

"medical practitioner" has the same meaning as in the Health and Personal Social Services (Northern Ireland) Order 1972(**11**);

"prospective adopter" means a married couple or a person who makes an application under regulation 3;

"receiving State" has the meaning given in Article 2(1) of the Convention;

"relevant HSS trust" in Part II has the same meaning given in regulation 13;

"RSCA" means, in relation to a Convention country other than the United Kingdom, the Central Authority of the receiving State;

"SOCA" means, in relation to a Convention country other than the United Kingdom, the Central Authority of the State of origin;

"State of origin" has the same meaning as in Article 2 of the Convention.

PART II

REQUIREMENTS, PROCEDURE, RECOGNITION AND EFFECT OF ADOPTION IN NORTHERN IRELAND WHERE THE UNITED KINGDOM IS THE RECEIVING STATE

Application for determination of eligibility, and assessment of suitability, to adopt

3.—(1) A married couple or a person habitually resident in the British Islands who wishes to adopt a child habitually resident in a Convention country outside the British Islands under the Convention must apply to an adoption agency for a determination of eligibility and an assessment of his suitability to adopt.

(2) An application under this regulation must be made in writing and include such information as the adoption agency may require.

(**6**) *See* section 2(3) of the Act
(**7**) Under Section 2(1) of the 2001 Act, the functions under the Convention of the Central Authority are to be discharged in Northern Ireland by the Department of Health, Social Services and Public Safety
(**8**) S.I. 1995/755 (N.I. 2)
(**9**) S.I. 1986/594 (N.I. 3)
(**10**) 1971 c. 77
(**11**) SI 1972/1265 (N.I. 14)

Eligibility requirements and requirement to notify

4.—(1) An adoption agency may not consider a person eligible to adopt unless the application under regulation 3 is made by a married couple or one person and–

(a) in the case of an application by a married couple, they have both attained the age of 21 years and the requirement prescribed in regulation 19(1)(a) is complied with; or

(b) in the case of an application by one person, he has attained the age of 21 years and one of the conditions in article 15(1) of the 1987 Order is satisfied and the requirement prescribed in regulation 19(1)(a) is complied with.

(2) The adoption agency must notify a prospective adopter in writing as soon as possible after becoming aware that he is not eligible to adopt because he does not meet the requirements of paragraph (1).

Requirement to provide counselling and information

5.—(1) Subject to paragraph (2), where an application is made in accordance with regulation 3, the adoption agency must–

(a) provide a counselling service for the prospective adopter;

(b) explain to him the legal implications of adoption and the procedure in relation to adopting a child under the Convention; and

(c) provide him with written information about the matters referred to in sub-paragraph (b).

(2) Paragraph (1) does not apply if the adoption agency is satisfied that the requirements set out in paragraph (1) have been carried out in respect of the prospective adopter by another adoption agency.

Procedure in respect of carrying out an assessment

6.—(1) Where, following the procedures referred to in paragraph (1) of regulation 5, and subject to paragraph (1) of regulation 4, the adoption agency is satisfied that the prospective adopter is eligible to adopt and considers he may be suitable to be an adoptive parent it must set up a case record in respect of him and place on it any information obtained under this regulation.

(2) The adoption agency must obtain such particulars as are referred to in Part VI of the Schedule to the Adoption Agencies Regulations together with, so far as is reasonably practicable, any other relevant information which may be required by the adoption panel.

(3) The adoption agency must obtain a written report–

(a) from a medical practitioner about the health of the prospective adopter which must deal with matters specified in Part VII of the Schedule to the Adoption Agencies Regulations;

(b) about the premises where the prospective adopter intends to live with any child who might be adopted by him; and

(c) of each of the interviews with the persons nominated by the prospective adopter to provide personal references for him,

and in a case where the adoption agency is not the HSS trust in whose area the prospective adopter has his home, it must also obtain a written report about him from the relevant HSS trust.

(4) The adoption agency must prepare a written report which must–

(a) state the Convention country from which the prospective adopter wishes to adopt a child, confirm that he is eligible to adopt a child under the law of that Convention country and provide any other information which that Convention country usually requires;

(b) include the adoption agency's assessment of the prospective adopter's suitability to be an adoptive parent;

(c) include any other observations of the adoption agency on the matters referred to in regulations 4 and 5 and in this regulation; and

(d) include information and observations regarding the prospective adopter's identity, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption as well as the characteristics of the children for whom he would be qualified to care and any other information which may be relevant.

(5) The adoption agency must notify the prospective adopter that his application is to be referred to the adoption panel and at the same time send him a copy of the adoption agency's report referred to in paragraph (4), inviting him to send any observations in writing to the adoption agency on the report within 28 days, beginning on the date on which the notification was sent.

(6) At the end of the period of 28 days referred to in paragraph (5) (or earlier if any observations made by the prospective adopter are received before the 28 days has expired), the adoption agency must pass the report referred to in paragraph (4), together with all relevant information obtained by it under this regulation (including the prospective adopter's observations on the report), to the adoption panel.

Adoption panel function

7.—(1) Subject to paragraph (2), the adoption panel must consider the case of the prospective adopter referred to it by the adoption agency and make a recommendation to the adoption agency as to whether the prospective adopter is suitable to be an adoptive parent.

(2) In considering what recommendation to make, the adoption panel–

(a) must consider and take into account all information and reports passed to it in accordance with regulation 6(6);

(b) may request the adoption agency to obtain any other relevant information which the adoption panel considers necessary; and

(c) may obtain legal advice as it considers necessary in relation to the case.

Adoption agency decision and notification

8.—(1) The adoption agency must take into account the recommendation of the adoption panel in coming to a decision about whether the prospective adopter is suitable to be an adoptive parent.

(2) No member of an adoption panel shall take part in any decision made by the adoption agency under paragraph (1).

(3) If the adoption agency decides to approve the prospective adopter as suitable to be an adoptive parent, it must notify him in writing of its decision.

(4) If the adoption agency considers that the prospective adopter is not suitable to be an adoptive parent, it must–

(a) notify the prospective adopter in writing that it proposes not to approve him as suitable to be an adoptive parent;

(b) send with the notification its reasons together with a copy of the recommendations of the adoption panel, if different; and

(c) invite the prospective adopter to submit any representation he wishes to make within 28 days.

(5) If within the period of 28 days referred to in paragraph (4), the prospective adopter has not made any representation, the adoption agency may proceed to make its decision and shall notify the prospective adopter in writing of its decision together with the reasons for that decision.

(6) If within the period of 28 days referred to in paragraph (4), the adoption agency receives further representation from the prospective adopter, it may refer the case together with all the relevant information to its adoption panel for further consideration.

(7) The adoption panel must reconsider any case referred to it under paragraph (6) and make a fresh recommendation to the adoption agency as to whether the prospective adopter is suitable to be an adoptive parent.

(8) The adoption agency must make a decision on the case but if the case has been referred to the adoption panel under paragraph (6) it must make the decision only after taking into account any recommendation of the adoption panel made under paragraph (7).

(9) As soon as possible after making the decision under paragraph (8), the adoption agency must notify the prospective adopter in writing of its decision, stating its reasons for that decision if it does not consider the prospective adopter to be suitable to be an adoptive parent, and of the adoption panel's recommendations, if different from the adoption agency's decision.

Procedure where the prospective adopter is approved by the adoption agency

9.—(1) Where the adoption agency is satisfied that the prospective adopter is eligible to adopt and has approved him as suitable to be an adoptive parent ("its decision") it must send to the Central Authority–

(a) written confirmation of its decision; and

(b) the report prepared for the purpose of regulation 6(4).

(2) The Central Authority may seek further information from the adoption agency, if the Central Authority considers it is appropriate to do so.

(3) If the Central Authority is satisfied that the adoption agency has complied with these Regulations and that all the relevant information has been supplied by that adoption agency, the Central Authority must send to SOCA–

(a) a certificate in the form set out in Schedule 1 confirming that the–

(i) prospective adopter is eligible to adopt;

(ii) prospective adopter has been assessed in accordance with these Regulations;

(iii) prospective adopter has been approved as suitable to be an adoptive parent; and

(iv) child will be authorised to enter and reside permanently within the United Kingdom if entry clearance, and leave to enter or remain as may be necessary, is granted and not revoked or curtailed and a Convention adoption order or Convention adoption is made; and

(b) a copy of the decision; and

(c) a copy of the report prepared for the purpose of regulation 6(4).

(4) The Central Authority must notify the adoption agency and the prospective adopter in writing that the certificate and the documents referred to in paragraph (3) have been sent to SOCA.

Procedure following receipt of the Article 16 report from SOCA

10.—(1) Where the Central Authority receives, from SOCA, the Article 16(**12**) report and other information specified in Article 16(2)(**13**) of the Convention ("the documents"), relating to the child

(**12**) Article 16(1) provides for SOCA to prepare a report which includes information about the child's identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child; and other specified considerations relating to the child

(**13**) Article 16(2) provides for proof that the necessary consents have been obtained and the reasons for SOCA's determination on the placement