
WELSH STATUTORY INSTRUMENTS

2006 No. 3100 (W.284)

SOCIAL CARE, WALES

CHILDREN AND YOUNG PERSONS, WALES

The Independent Review of Determinations
(Adoption) (Wales) Regulations 2006

Made - - - - 21 November 2006

Coming into force - - 31 December 2006

The National Assembly for Wales in exercise of the powers conferred by sections 9 and 12 of the Adoption and Children Act 2002(1) makes the following Regulations—

PART 1

GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Independent Review of Determinations (Adoption) (Wales) Regulations 2006.

(2) They come into force on 31 December 2006.

(3) These Regulations apply to Wales.

Interpretation

2. In these Regulations—

“the Act” means the Adoption and Children Act 2002;

“the Agencies Regulations” means the Adoption Agencies (Wales) Regulations 2005(2);

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

“applicant” means—

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

(1) 2002 c. 38. Section 12 was amended by section 57 of the Children Act 2004 (c. 31).

(2) S.I. 2005/1313.

- (b) in the case of a disclosure determination, a relevant person within the meaning of regulation 13A(7) of the Disclosure Regulations;
- “the central list” is to be construed in accordance with regulation 4;
- “disclosure determination” means a qualifying determination described in regulation 13A(1) of the Disclosure Regulations(3);
- “the Disclosure Regulations” means the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005(4);
- “the Independent Review Regulations 2005” means the Independent Review of Determinations (Adoption) (Wales) Regulations 2006(5);
- “the National Assembly” means the National Assembly for Wales;
- “panel” means a panel constituted in accordance with regulation 4(1);
- “qualifying determination” means a determination described in regulation 3;
- “review meeting” means a meeting convened in accordance with regulation 13 for the purposes of reviewing a qualifying determination;
- “social worker” 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(6) or in a corresponding register maintained under the law of Scotland or Northern Ireland; and
- “suitability determination” means a qualifying determination described in regulation 3(a).

Qualifying determination for the purposes of section 12(2) of the Act

3. For the purposes of section 12(2) of the Act, a qualifying determination is—
- (a) a determination that has been made by an adoption agency in accordance with the 2005 Regulations as follows:
- (i) Where under regulation 28(4) of the Agency Regulations the agency do not propose to approve a prospective adopter as suitable to be an adoptive parent.
 - (ii) Where the agency consider that a prospective adopter is no longer suitable to be an adoptive parent following a review under regulation 30 of the Agency Regulations.
- (b) A determination described in regulation 13A(1) of the Disclosure Regulations(7)

(3) 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 Act (a) not to proceed with an application from any person for the disclosure of protected information; (b) to disclose information to an applicant 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.

(4) [S.I. 2005/2689](#).

(5) [2005/1891 \(W.147\)](#).

(6) Care Standards Act 2000 Ch 14

(7) See regulation 16 of these Regulations.

PART 2

PANELS

Constitution of panels

4.—(1) The National Assembly must, on receipt of an application made by an applicant in accordance with regulation 12, constitute a panel for the purpose of reviewing the qualifying determination.

(2) The members of the panel must be drawn from a list of persons appointed and serving as members of adoption agency panels in Wales (in these Regulations referred to as “the central list”), kept by the National Assembly who are considered by the National Assembly to be suitable, by virtue of their skills, qualifications or experience to be members of a panel.

(3) The members of the central list must include—

- (a) Social workers within the meaning of Part IV Care Standards Act 2000 who have at least five years post-qualifying experience in adoption and family placement work; and
- (b) other persons who are considered by the National Assembly to be suitable as members including, where reasonably practicable, persons with personal experience of adoption.

Membership of Panels

5.—(1) The maximum number of people who may be appointed to a panel is five.

(2) A panel must be advised by:

- (a) A social worker within the meaning of Part IV of the Care Standards Act with appropriate qualifications, skills and experience;
- (b) A registered medical practitioner with relevant expertise in adoption work;

(3) A panel may, where the panel considers it appropriate, be advised by:

- (a) A legal advisor with knowledge and expertise in adoption legislation;
- (b) Any other person who the panel considers has relevant expertise in relation to the determination being considered.

(4) Where the qualifying determination being reviewed is a disclosure determination, the panel must include at least two persons falling within regulation 4 (3)(a).

(5) The National Assembly must—

- (a) appoint to chair a panel a person who has the skills and experience necessary for chairing a panel; and
- (b) in the case of a panel constituted to review a suitability determination, appoint one of the members of the panel as vice chair to act as chair if the person appointed to chair the panel is absent or if the office of chair is vacant.

(6) A person must not be appointed to a panel if—

- (a) that person is a member of the adoption panel of the adoption agency that made the qualifying determination;
- (b) where the adoption agency which made the qualifying determination is a local authority the person is, or has been within the period of two years prior to the date on which the qualifying determination was made, employed by that authority in their children and family social services or a member of that authority;

- (c) where the adoption agency which made the qualifying determination is a registered adoption society the person is, or has been within the period of two years prior to the date on which the qualifying determination was made, an employee or a trustee of that agency;
 - (d) that person is related to a person falling within sub-paragraph (a), (b) or (c);
 - (e) that person has within the last two years had a child placed for adoption with him or her by the adoption agency which made the qualifying determination;
 - (f) that person was within the last two years approved as a prospective adopter by the adoption agency that made the qualifying determination; or
 - (g) that person knows the applicant in a personal or professional capacity.
- (7) In this regulation—
- (a) “employed” includes employed whether or not for payment and whether under a contract of service or a contract for services or as a volunteer; and
 - (b) a person (“*person A*”) is related to another person (“*person B*”) if person A is—
 - (i) a member of the household of, or married to or the civil partner of, person B;
 - (ii) the son, daughter, mother, father, sister or brother of person B; or
 - (iii) the son, daughter, mother, father, sister or brother of the person to whom person B is married or with whom person B has formed a civil partnership.

Meetings of panels

6. —The proceedings of a panel will be invalidated unless at least four of its members are present.

Functions of panel constituted to review a suitability determination

7.—(1) This regulation applies where the qualifying determination being reviewed is a suitability determination.

- (2) A panel must —
- (a) review the suitability determination; and
 - (b) make a recommendation to the adoption agency which made the qualifying determination as to whether or not a prospective adopter is suitable to be an adoptive parent.
- (3) In considering what recommendation to make, the panel—
- (a) must consider and take into account all of the information passed to it in accordance with regulation 29 of the Agencies Regulations;
 - (b) may request the adoption agency to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and
 - (c) may obtain such legal advice as it considers necessary in relation to the case.

Functions of panel constituted to review a disclosure determination

8.—(1) This regulation applies where the qualifying determination being reviewed is a disclosure determination.

(2) A panel must review the disclosure determination and make to the adoption agency that made the disclosure determination a recommendation as to whether or not the agency should proceed with its original determination.

- (3) In considering what recommendation to make, the panel—
- (a) must consider and take into account all of the information passed to it in accordance with regulation 13A of the Disclosure Regulations;