

SL(5)333 – The Adoption Support Services (Wales) Regulations 2019

Background and Purpose

These Regulations are made under the Adoption and Children Act 2002 ("the 2002 Act"). Section 2(6) of the 2002 Act provides that counselling, advice and information, and any other services prescribed by regulations, in relation to adoption, are adoption support services.

Regulation 3(1) of these Regulations prescribes services which are adoption support services.

Procedure

Negative.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 2 includes the following definition (emphasis added):

"adoptive parent" ("rhiant mabwysiadol") means a person—

- (a) who an adoption agency has decided in accordance with regulation 34(1) of the Adoption Agencies (Wales) Regulations 2005 is a suitable **adoptive parent** for a particular child,
- (b) with whom an adoption agency has placed a child for adoption,
- (c) who has given notice under section 44 of the 2002 Act of their intention to apply for an adoption order for a child,
- (d) who has adopted a child, or
- (e) who has adopted a child who has subsequently attained the age of 18,

but does not include a person who is the step parent or birth parent of the child or was the step parent of the child before they adopted the child.

With regard to the definition in paragraph (a), the definition appears to be circular, i.e. adoptive parent is defined by reference to adoptive parent. We assume that, in paragraph (a), adoptive parent should be defined by reference to a suitable prospective adopter under regulation 34(1) of the Adoption Agencies (Wales) Regulations 2005.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.



Government Response

The technical scrutiny element of the draft report refers to one drafting point which is noted.

The definition of “adoptive parent” in regulation 2 reflects identical provision which is made in existing Regulations which also make provision about the delivery of adoption support services, namely the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (S.I. 2005/1512 (W. 116)).

It is acknowledged that there is an element of circularity about the definition. However, the wording of subparagraph (a) still works to make clear that the term “adoptive parent” includes those who are approved in relation to a particular child even if the child is not yet placed with them.

On that basis, we do not propose to bring forward any amendment to the definition as we are satisfied that the meaning is sufficiently clear as drafted and will be understood by all those persons who are or will be affected by the Regulations.

Committee Consideration

The Committee considered the instrument along with the Government response at its meeting on 11 March 2019 and reports to the Assembly in line with the technical reporting points above.

