

Draft Regulations laid before the National Assembly for Wales under section 140(3)(a) of the Adoption and Children Act 2002, for approval by resolution of the National Assembly for Wales.

**D R A F T W E L S H S T A T U T O R Y
I N S T R U M E N T S**

2020 No. (W.)

SOCIAL CARE, WALES

**The Adoption Agencies (Wales)
(Amendment) (No. 2) Regulations
2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Adoption Agencies (Wales) Regulations 2005 (“the Principal Regulations”), which make provision relating to the exercise by adoption agencies (local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002.

Further amendments are made to the Principal Regulations by the Adoption Agencies (Wales) (Amendment) Regulations 2020. Those Regulations, in the main, substitute a new Part 4 in the Principal Regulations to provide for a two stage approval process for prospective adopters. Those Regulations were subject to the negative procedure by the National Assembly for Wales.

The amendments made by these Regulations place a requirement on adoption agencies, when assessing the suitability of a couple to adopt a child, to have proper regard to the need for stability and permanence in their relationship. The amendments made by these Regulations should be read in conjunction with the amendments made by the Adoption Agencies (Wales) (Amendment) Regulations 2020.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result it was not considered necessary to carry out a

regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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Made

Coming into force

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 9 and 45(2) of the Adoption and Children Act 2002⁽¹⁾.

(1) 2002 c. 38; see the definitions of “regulations”, “appropriate Minister” and “the Assembly” in section 144(1). The power conferred on the National Assembly for Wales to make regulations under the Adoption and Children Act 2002 transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

A draft of these Regulations was laid before the National Assembly for Wales under section 140(3)(a) of that Act and has been approved by a resolution of the National Assembly for Wales(1).

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020.

(2) These Regulations come into force on 1 April 2020 immediately after the coming into force of the Adoption Agencies (Wales) (Amendment) Regulations 2020(2).

(3) In these Regulations, “the Principal Regulations” means the Adoption Agencies (Wales) Regulations 2005(3).

Amendment of the Principal Regulations

2.—(1) The Principal Regulations are amended as follows.

(2) In regulation 30 (prospective adopter’s report), in paragraph (2)(e), after “a child” insert “, and in determining the suitability of a couple to adopt a child the agency must have proper regard to the need for stability and permanence in their relationship”.

(3) In Schedule 4A (modifications to Part 4), in paragraph 4(b), in the substituted paragraph (2)(d), after “a child” insert “, and in determining the suitability of a couple to adopt a child the agency must have proper regard to the need for stability and permanence in their relationship”.

(1) Section 140(3)(a) of the Adoption and Children Act 2002 provides that a statutory instrument containing subordinate legislation under section 9 which includes provision made by virtue of section 45(2) (that is, provision for the purpose of securing that, in determining the suitability of a couple to adopt a child, proper regard is had to the need for stability and permanence in their relationship) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament. Where subordinate legislation is made by the National Assembly for Wales, section 140(3) is disapplied (see section 140(4)). By virtue of paragraph 34 of Schedule 11 to the Government of Wales Act 2006, section 140(3) applies to the exercise by the Welsh Ministers of the function of making a statutory instrument containing such subordinate legislation as if the reference to each House of Parliament were a reference to the National Assembly for Wales. Accordingly, by virtue of paragraph 34(2) of Schedule 11 to the Government of Wales Act 2006, these Regulations are subject to the affirmative procedure.

(2) S.I. 2020/163 (W. 31).

(3) S.I. 2005/1313 (W. 95), amended by S.I. 2020/163 (W.31). There are other amendments not relevant to these Regulations.

Name

Deputy Minister for Health and Social Services under authority of the Minister for Health and Social Services, one of the Welsh Ministers

Date