

To: Business Committee

From: Brian Gibbons AM
Minister for Health and Social Services

EXPLANATORY MEMORANDUM

CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES

SOCIAL CARE, ENGLAND AND WALES

THE VOLUNTARY ADOPTION AGENCIES (AMENDMENT) REGULATIONS 2005

Summary

These Regulations amend the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003 to impose additional obligations in relation to the Agencies Statement of Purpose and staff records where it provides adoption support services.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Voluntary Adoption Agencies (Amendment) Regulations 2005, in accordance with Standing Order 25 (section 3).
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Powers

3. The powers enabling this Instrument to be made are contained in sections 9(1)(a) and 140(7) and (8) of the Adoption and Children Act 2002. These powers have been conferred on the National Assembly for Wales and in turn have been delegated to my portfolio as Minister for Health & Social Services.
4. The Care Standards Act 2000 provides for the registration and inspection of establishments and agencies, including Voluntary Adoption Agencies, by the registration authority. Functions relating to Voluntary Adoption Agencies conferred on the registration authority are exercisable by the Commission for Social Care Inspection, where the principal office is in England and by the National Assembly for Wales, where the principal office is in Wales.

Effect

5. The Adoption Support Agencies (Wales) Regulations 2005 set out a regulatory framework for the previously unregulated agencies providing adoption support services under the Care Standards Act with the National Assembly for Wales, in Wales as the regulatory authority. Voluntary Adoption Agencies (VAAs) providing adoption support are not required to register separately as adoption support agencies, but, the terms of their

registration as VAAs will be varied so that they have to conform to National Minimum Standards and amended regulatory requirements covering adoption support.

6. These Regulations amend the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003, to impose additional obligations to reflect the broader scope of functions of a Voluntary Adoption Agency, which decides to also provide adoption support services. These additional obligations are in relation to the Voluntary Adoption Agency's statement of purpose and staff records. The Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003 were made as joint Regulations to reflect the cross boundary working of voluntary adoption agencies. Therefore they need joint Regulations to amend them.
7. The Regulations also insert a new part in the 2003 Regulations to reflect that the Voluntary Adoption Agency will be providing adoption support services. In particular a Voluntary Adoption Agency, which provides adoption support services to children will need to:
 - provide a children's guide where services are provided to children;
 - ensure that adoption support services are appropriate having regard to the assessed needs; and
 - maintain records about the provision of adoption support services.
8. Finally, the Regulations make other minor amendments to the Regulations to reflect the coming into force of the Adoption and Children Act 2002 on 30 December 2005.
9. These Regulations implement some distinct Welsh provision as they relate to Welsh registration authorities and use a distinct definition for the key concept of adopted child. The Welsh definition of "adoptive child" is:
 - a child whom an adoption agency has decided is a child who should be placed for adoption; or
 - whom an adoption agency has placed for adoption; or
 - who has been adopted after having been placed for adoption by an adoption agency. Whereas the English definition of adopted child is an agency adoptive child.

Target Implementation

10. It is intended that this Instrument will be made on 29 November 2005, laid in the UK Parliament on 2 December 2005 and come into force on 30 December 2005. If these target dates are not met, then the 2003 Regulations will be deficient and the provision of adoption support services by Voluntary Adoption Agencies in both England and Wales will not be adequately covered by the Care Standards inspection and regulatory regime and the registration bodies will be unable to undertake their functions.

Financial Implications

11. There is no impact on small businesses. These Regulations impact only on Voluntary Adoption Agencies and the functions and obligations imposed by the Regulations should have little or no impact on their costs.
12. There are no additional financial implications for the Assembly, the National Health Service or other statutory bodies.
13. Additional funding to take forward the implementation of the Adoption and Children Act 2002 is included in the additional resources provided to local authorities as Children First Grant and in the revenue settlement. The Children First Grant budget for 2005-06 is £28.079m within the Health and Social Care Main Expenditure Group. This, together with the £13.557m transferred from Children First grant into the local government revenue settlement in 2005-06, provides a total funding for 2005-06 of £41.636m.

Regulatory Appraisal

14. As this Instrument falls outside the definition of Assembly general subordinate legislation in section 58 of the Government of Wales Act 1998, a Regulatory Appraisal is not required to be undertaken.

Consultation

With Stakeholders

15. Although there was no separate consultation on these amending Regulations, the only Voluntary Adoption Agency in Wales was consulted on the provisions of the Adoption Support Services (Wales) Regulations 2005 and the Adoption Support Agencies (Wales) Regulations 2005.

With Subject Committee

16. These Regulations were notified to the Health and Social Services Committee via the list of forthcoming legislation on 5 October 2005 (HSS (2)-10-05(p.5a), (HSS (29) 05)), but were not identified for detailed scrutiny.

Recommended Procedure

17. Subject to the views of the Business Committee, I recommend that these Regulations proceed to Plenary under the Standard procedure, given that they are essential to put into effect the provisions of the Adoption and Children Act 2002.

Compliance

18. The proposed legislation will (as far as is applicable):
 - have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
 - be compatible with the Assembly's scheme for sustainable development (section 121);
 - be compatible with Community law (section 106);
 - be compatible with the Assembly's Human Rights legislation (section 107); and
 - be compatible with any international obligations binding the UK Government and the Assembly (section 108).

19. The information in this Memorandum has been cleared with the Directorate of Legal Services and the Assembly Compliance Officer.

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**BRIAN GIBBONS
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