

EXPLANATORY MEMORANDUM TO THE ADOPTION AGENCIES (WALES) (AMENDMENT) REGULATIONS 2014

This Explanatory Memorandum has been prepared by the Health, Social Services and Children Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Adoption Agencies (Wales) (Amendment) Regulations 2014.

Gwenda Thomas

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

10 March 2014

1. Description

- 1.1 Part 2 of the Adoption Agencies (Wales) Regulations 2005 make provision for the arrangements for adoption work which agencies must put in place. Regulation 3 requires agencies to set up adoption panels and regulations 4 and 5 make provision in relation to the tenure of panel members and the proceedings of adoption panels. Regulation 8 requires agencies to appoint an adoption adviser to the adoption panel. These Regulations amend the Principle Regulations to provide greater flexibility for adoption agencies when constituting an adoption panel, whether on their own or jointly with other adoption agencies. These amending Regulations are intended to facilitate the development of a national adoption service.
- 1.2 These regulations amend regulations 3 – 10 of the Adoption Agencies (Wales) Regulations 2005 ('the Principal Regulations') and are considered appropriate to achieve the policy intent of a National Adoption Service.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 None.

3. Legislative background

- 3.1 These regulations are made under sections 9(1)a, 140(7) and (8), 142(4) and 50(5) of the Adoption and Children Act 2002(1)(2) and are subject to the negative procedure. The powers are exercisable by the "appropriate Minister", defined in relation to Wales, as the National Assembly for Wales under section 144 (1) and 145(1) of the Adoption and Children Act 2002. They will come into force on the date specified in the instrument.
- 3.2. An adoption agency is defined in section 2 of the Adoption and Children Act 2002 ("the Act") as a local authority or a registered adoption society (in practice the term "voluntary adoption agency" is commonly used to mean a "registered adoption society"). While voluntary adoption agencies have the powers to place children for adoption, it is only local authorities who may apply to the court for a placement order (section 22 of the Act) to place looked after children for adoption with approved prospective adopters. Local authorities also prepare reports to the court when a looked after child is to be adopted abroad.
- 3.3 The Principal Regulations require that when an adoption agency is considering adoption for a child or considering the suitability of prospective adopters, the agency must refer the case to an adoption panel, which must then make a recommendation to the agency as to whether the child should be placed for adoption or whether the prospective adopters are suitable to adopt.

- 3.4 These Regulations amend the Principal Regulations to provide greater flexibility for adoption agencies when constituting an adoption panel, whether on their own or jointly with other adoption agencies. These amending Regulations are intended to facilitate the development of a national adoption service.
- 3.5 Regulation 3 of the amending Regulations requires adoption agencies to maintain a central list of persons considered by it to be suitable to be members of an adoption panel, it also makes provision about who should be included on the central list and that the list of persons considered suitable to be members of an adoption panel may be maintained (jointly) by two or more adoption agencies.
- 3.6 Regulation 4 of the amending Regulations makes provision regarding the constitution of adoption panels, which includes provision for two or more adoption agencies to constitute a joint adoption panel, this provision enables regional collaboritves to constitute a joint panel; at the moment Regulation 3 (5) of the Principle Regulations prohibits more than 3 adoption agencies establishing a joint panel.

4. Purpose & intended effect of the legislation

- 4.1 To facilitate the development of a national adoption service in Wales.

5. The Policy

- 5.1 The Welsh Government is committed to improving the adoption service for looked after children. The aim of the adoption reform programme is to increase the number of adoptions of looked after children (where this is in the child's best interests); encourage more people to come forward to adopt; tackle delay and remove real or perceived barriers.
- 5.2 The proposed amendments seek to remove the restrictions around collaboration, membership and tenure of panels which will be central to combating the delay for adopters, providing greater flexibility in regional delivery and the implementation of a national adoption service. It is expected that these changes will result in children and prospective adopters' cases being heard by adoption panels more quickly as panels will be constituted from members on a central list rather than sticking to a standing panel with a fixed membership. Because the membership of a panel (convened from the central list) will be more flexible, there will be less likely hood of panels being delayed or postponed due to unavailability of members. The changes are designed to ensure that the legislative framework for the setting up and operation of adoption panels is no more prescriptive than is necessary and will allow greater flexibility in the way adoption panels are operated.

6. Consultation Outcome

6.1 Legislative changes were identified and discussed during consultations which were held to introduce the Social Service and Well-being Wales Bill and with stakeholders throughout Wales. Confirmation of the need for change was also received from the diverse membership of both the Expert Advisory Group on Adoption and the Task and Finish Group who were convened for the purpose of implementing a National Adoption Service.

7. Regulatory Impact Assessment (RIA)

7.1 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 because there will be an overall reduction in burdens for local authorities adoption services