

2014 No.

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Adoption Agencies (Miscellaneous Amendments)  
Regulations 2014**

<i>Made</i> - - - -	2014
<i>Laid before Parliament</i>	2014
<i>Coming into force</i> - -	2014

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 9(1)(a) and 140(7) and (8) of the Adoption and Children Act 2002(a) and sections 22C(11), 34(8)(za) and 104(4) of, and paragraph 12E of Schedule 2 to, the Children Act 1989(b).

**Citation and commencement**

1. These Regulations may be cited as the Adoption Agencies (Miscellaneous Amendments) Regulations 2014 and come into force on [x] 2014.

**Amendment of the Adoption Agencies Regulations 2005**

2. The Adoption Agencies Regulations 2005(c) are amended as follows.

3. In regulation 12(1), at the end, insert—

“(j) details of any prospective adopters for the child identified by virtue of regulation 12A(1) (*requirement to identify potential prospective adopters*); and

(k) the record of any decision, and any notification of that decision, under regulation 12B (*duties of adoption agency considering a placement under section 22C(9A) of the Children Act 1989*).”.

4. After regulation 12 insert —

**“Requirement to identify potential prospective adopters**

**12A.** (1) The adoption agency must—

(a) identify prospective adopters who may be suitable to adopt the child, and

(b) where appropriate in the circumstances of the child’s case, use its best endeavours to identify a particular prospective adopter with whom they propose the child is placed, as soon as reasonably practicable.

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(a) 2002 c.38. For the definition of “regulations” see section 144(1).

(b) 1989 c.41. Section 34(8)(za) was inserted by section 8 of the Children and Families Act 2014.

(c) S.I. 2005/389; amended by S.I. 2005/3482, 2007/603, 2009/1892, 2009/1895, 2010/1172, 2011/589, 2012/1410 and 2013/985.

(2) Where the adoption agency is considering adoption for two or more siblings it must, in carrying out the duties in paragraph (1), consider whether to seek to identify prospective adopters who may be suitable to adopt two or more of the siblings together, having regard to the best interests of each sibling determined in accordance with section 1(2), (3) and (4) of the Act (*considerations applying to the exercise of powers in relation to the adoption of a child*).

(3) In determining whether a prospective adopter may be suitable to adopt the child, the adoption agency must assess the ability of the prospective adopter to meet the needs of the child throughout childhood, having regard to the duties imposed on the adoption agency under section 1(2), (3) and (4) of the Act.

### **Duties of Adoption Agency considering a placement under section 22C(9A) of the Children Act 1989**

**12B.** (1) This regulation applies in any case where the adoption agency—

- (a) decides, in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010, to place the child in accordance with section 22C(9A) of the Children Act 1989(a) (*placement of child with a local authority foster parent who is also a prospective adopter*); and
- (b) identifies a particular prospective adopter with whom they propose the child is placed.

(2) As soon as possible after making its decision the adoption agency must—

- (a) notify the prospective adopter in writing of its decision,
- (b) if their whereabouts are known to the agency, notify the parent or guardian (and, where regulation 14(3) applies and the agency considers it appropriate, the father of the child) of the fact that that child is to be placed in accordance with section 22C(9A) of the Children Act 1989, and
- (c) explain its decision to the child in an appropriate manner, having regard to the child's age and understanding.”.

5. In regulation 18(2) omit the words “, (5)”.

6. In regulation 32(2), for “1(2), (4) and (5)” substitute “1(2) and (4)”.

### **Amendment of the Care Planning, Placement and Case Review (England) Regulations 2010**

7. The Care Planning, Placement and Case Review (England) Regulations 2010(b) are amended as follows.

8. Before regulation 8, and under the heading “Contact with a child in care”, insert—

“**8ZA.** When considering whether contact between C and any of the persons mentioned in paragraphs (a) to (d) of section 34(1) of the 1989 Act is consistent with safeguarding and promoting C's welfare the responsible authority must have regard to C's care plan.”.

9. In regulation 8 (3)(c) after “decision”, insert—

“including that regard was had to C's care plan”.

10. After regulation 22 insert—

“**Placement in accordance with section 22C(9A)**”

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(a) 1989 c. 41. Section 22C(9A) is inserted by section 2 of the Children and Families Act 2014 (c. x).

(b) S.I. 2005/389; amended by S.I. 2005/3482, 2007/603, 2009/1892, 2009/1895, 2010/1172, 2011/589, 2012/1410 and 2013/985.

**22A.** (1) This regulation applies where the responsible authority propose to place C with F in accordance with section 22C(9A) (*placement of child with a local authority foster parent who is also a prospective adopter*).

(2) The decision to place C with F must not be put into effect until it has been approved by the director of children's services, and the responsible authority have prepared a placement plan for C.

(3) Before approving a decision under paragraph (2), the director of children's services must be satisfied that-

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) the placement is the most appropriate placement available for C and will safeguard and promote C's welfare,
- (c) the requirements of regulation 12B(2)(b) of the Adoption Agencies Regulations 2005 will be complied with before the child is placed with F, and
- (d) the IRO has been notified."

**11.** In paragraph 2(2) of Schedule 1, and in paragraph 9(e) of Schedule 2A, for "responsible for" substitute "appointed under section 22(3B) for the purpose of".

date

Parliamentary Under Secretary of State  
Department for Education

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Adoption Agencies Regulations 2005 (the AARs), which make provision about the exercise by adoption agencies (that is, local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002. They also amend the Care Planning, Placement and Case Review (England) Regulations 2010 (the CPPCRRs), which make provision about care planning for children who are looked after by local authorities. They come into force on [x] 2014.

They place duties on adoption agencies to identify prospective adopters when they are considering adoption for a child. They require the agency in all cases to identify potential prospective adopters for the child. In appropriate cases, they also require the agency to use their best endeavours to identify the particular prospective adopter with whom they consider the child should be placed for adoption, as soon as reasonably possible (AARs new regulation 12A(1)).

They require that, where an adoption agency is considering adoption for two or more siblings, the agency must consider whether to seek to identify prospective adopters who might adopt two or more of the siblings together and, in doing so, must have regard to the best interests of each of the siblings determined in accordance with the duties imposed on the adoption agency under section 1(2), (3) and (4) of the Act (*considerations applying to the exercise of powers in relation to the adoption of a child*) (AARs new regulation 12A(2)).

They also require that, in determining whether a prospective adopter may be suitable to adopt a child, the adoption agency must assess the ability of the prospective adopter to meet the needs of the child throughout childhood having regard to the duties in section 1(2) and (4) of the Act (AARs new regulation 12A(3)).

They make provision in relation to the placement of a child under section 22C(9A) of the Children Act 1989 (which is inserted by the Children and Families Act 2014), that is a placement of a looked after child with local authority foster parents who are approved prospective adopters, where the adoption agency is a local authority considering adoption for the child. They require

that, where the adoption agency decides to place a child pursuant to section 22C(9A), it must notify the prospective adopter and the child's parent or guardian (where possible) in writing of that decision, and must explain their decision to the child (subject to the child's age and understanding) (AARs new regulation 12B). They also require that a decision to place a child pursuant to section 22C(9A) must be approved by the director of children's services of the local authority looking after the child before it can be put into effect (CPPCRR new regulation 22A).

They amend the CPPCRR to require that, when considering the issue of what contact there should be between a child and their family, the local authority must have regard to the child's care plan (regulation 7 and 8).

They make a minor amendment to the AARs and CPPCRR consequent on the amendment to section 1(5) of the Adoption and Children Act 2002 by the Children and Families Act 2014.

They also make minor amendments to the CPPCRR consequent on the coming into force of section 22(3B) of the Children Act 1989 (regulation 10).

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