

2020 No. 445

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Adoption and Children (Coronavirus) (Amendment)
Regulations 2020**

<i>Made</i>	- - - -	<i>21st April 2020</i>
<i>Laid before Parliament</i>		<i>23rd April 2020</i>
<i>Coming into force</i>	- -	<i>24th April 2020</i>

The Secretary of State for Education, in exercise of the powers conferred by sections 22C(6)(d) and (11), 24D(1A), 26(1), (2) and (4A), 59(4)(a), 67(2), 104(4) of and paragraphs 12A and 12F of Schedule 2 to the Children Act 1989(a), sections 22(1), (1A), (2)(a) to (d), (2)(f) to (h), (2)(j), (5)(a) to (c), (7)(a) to (j), (8)(b), 25(1), 31(7), 34(1), 35(1) and 118(5) to (7) of the Care Standards Act 2000(b), sections 9(1)(a), 140(7) and (8) and 142(5) of the Adoption and Children Act 2002(c), sections 20(8)(d) and 66(1) of the Children Act 2004(d) and sections 137(4) and 181(1) of the Education and Inspections Act 2006(e) makes the following Regulations.

In accordance with section 22(9) of the Care Standards Act 2000 the Secretary of State has consulted such persons as were considered appropriate.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Adoption and Children (Coronavirus) (Amendment) Regulations 2020.

(2) These Regulations come into force on 24th April 2020.

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- (a) 1989 c. 41. Section 22C(11) was amended by S.I. 2016/413. Section 24(1A) was inserted by section 117(1) of the Adoption and Children Act 2002 (c. 38) and substituted by S.I. 2005/413. Section 26(1) was substituted by S.I. 2016/413. Section 26(2)(e)(f) was inserted by section 118(1)(a)(b) of the Adoption and Children Act 2002. Section 26(2)(k) was repealed by section 10(3) of the Children and Young Persons Act 2008 (c. 23). Section 26(4A) was substituted by S.I. 2016/413. Section 104(4)(c) was repealed by paragraph 25(5) of Schedule 3 to the Children and Young Persons Act 2008. Paragraphs 12A to 12G of Schedule 2 were substituted by paragraph 4 of Schedule 1 to the Children's and Young Persons Act 2008. Paragraph 12F of Schedule 2 was amended by S.I. 2016/413.
- (b) 2000 c. 14. Section 22(1) was amended by section 103(1) of the Children and Families Act 2014 (c. 6). Section 22(1)(b)(ii) was amended by S.I. 2019/772. Section 22(1A) was inserted by section 103(2) of the Children and Families Act 2014. Section 22(8)(b) was inserted by S.I. 2016/413. Section 31(7) was amended by section 95 of and Schedule 5 to the Health and Social Care Act 2008.
- (c) 2002 c. 38. Section 140(7) was inserted by section 7(1) of the Children and Families Act 2014.
- (d) 2004 c. 31. There are no amendments relevant to these Regulations.
- (e) 2006 c. 40. There are no amendments relevant to these Regulations.

- (b) in paragraph (4) after “adoption agency must” insert “decide whether or not to refer the case to an adoption panel or to proceed to make a decision under regulation 33 without such a referral and, where the case is being referred to an adoption panel, the adoption agency must”.
- (15) In regulation 33(1) (adoption agency decision in relation to proposed placement), for “account the” substitute “account any”.
- (16) In regulation 36 (reviews), at the beginning insert—
 - “(A1) Subject to paragraph (B1) an adoption agency does not have to carry out a review required by this regulation where the adoption agency decide that it is not reasonably practicable to carry out the review of the child’s case.
 - (B1) Paragraph (A1) does not apply where the adoption agency is satisfied that a review is necessary to safeguard and promote the welfare of the child.”.

PART 4

Private Fostering

Amendment of the Children (Private Arrangements for Fostering) Regulations 2005

5.—(1) The Children (Private Arrangements for Fostering) Regulations 2005(**a**) are amended as follows.

(2) In regulation 4(1) (action to be taken by local authority on receipt of notification of proposal to foster a child privately), after “seven working days” insert “, or as soon as is reasonably practicable,”.

(3) In regulation 7(1) (action to be taken by local authority on receipt of notification about a child being fostered privately), after “seven working days” insert “, or as soon as is reasonably practicable,”.

(4) In regulation 8(1) (subsequent visits to children who are being fostered privately)—

- (a) in sub-paragraph (a) after “fostering arrangement” insert “, where reasonably practicable”, and
- (b) in sub-paragraph (b) after “subsequent year,” insert “where reasonably practicable,”.

PART 5

Children Act 1989 Representations Procedure

Amendment of the Children Act 1989 Representations Procedure (England) Regulations 2006

6.—(1) The Children Act 1989 Representations Procedure (England) Regulations 2006(**b**) are amended as follows.

(2) In regulation 18(2) (request for review panel), after “authority’s response” insert “, or as soon as is reasonably practicable,”.

(3) In regulation 19(4) (review panel), after “regulation 18” insert “, or as soon as is reasonably practicable”.

(4) In regulation 20 (recommendations)—

(**a**) S.I. 2005/1533. There are no amendments relevant to these Regulations.
 (**b**) S.I. 2006/1738. There are no amendments relevant to these Regulations.

- (a) in paragraph (2) after “of the meeting” insert “, or as soon as is reasonably practicable,”, and
- (b) in paragraph (3) after “panel’s recommendations” insert “, or as soon as is reasonably practicable,”.

PART 6

Inspection of Local Authorities

Amendment of the Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007

7. In regulation 3 (publication of written statement of proposed action) of the Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007(a), after “of receiving that report,” insert “, or as soon as is reasonably practicable”.

PART 7

Care Planning

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

- 8.—(1) The 2010 Regulations are amended as follows.
- (2) In regulation 2 (interpretation), omit the definition of “connected person”.
 - (3) In regulation 5(1) (preparation and content of the care plan)—
 - (a) in sub-paragraph (c) after “placement plan” insert “once prepared”, and
 - (b) in sub-paragraph (e) after “placement plan” insert “, once this has been prepared”.
 - (4) In regulation 9(2) (placement plan), for “within five working days of” substitute “as soon as is reasonably practicable after”.
 - (5) For regulation 11(4)(a) (placement decision) substitute—
 - “(a) F who is a person with whom a placement is made under regulation 24, or”.
 - (6) In regulation 18(1) (decision to place a child with P), omit “and the responsible authority have prepared a placement plan for C”.
 - (7) In regulation 19(b) (circumstances in which a child may be placed with P before assessment completed), for “within 10 working days of” substitute “as soon as is reasonably practicable after”.
 - (8) In regulation 22A(2) (placement following consideration in accordance with section 22C(9B)(c) of the Act)—
 - (a) omit paragraph (2), and
 - (b) for the opening words of paragraph (3) substitute—
 - “(3) Before making a placement under paragraph (1), the responsible authority must—”.
 - (9) Omit regulation 22B(2)(a) (conditions to be complied with before placing C in a long term foster placement).
 - (10) In regulation 23 (emergency placement with a local authority foster parent), for the words “six working days” in both places in which they occur substitute “twenty four weeks”.
 - (11) In regulation 24 (temporary approval of relative, friend or other person connected with C)—

(a) S.I. 2007/462. There are no amendments relevant to these Regulations.

- (a) for paragraph (1) and the heading to the regulation substitute—

“Temporary approval

24.—(1) Where the responsible authority is satisfied that the most appropriate placement for C is with a person who has not yet been approved as a local authority foster parent they may approve that person as a local authority foster parent for a temporary period not exceeding 24 weeks (“temporary approval”) provided that they first comply with the requirements of paragraph (2).”,

- (b) in paragraph (2) omit the word “connected” in each place it occurs, and

- (c) omit paragraph (3).

(12) In regulation 25 (expiry of temporary approval) omit the word “connected” in each place that it occurs.

- (13) After regulation 28(1) (frequency of visits) insert—

“(1A) Any visit required by this regulation may be conducted by telephone, video-link or other electronic means.

(1B) Where R is unable to visit C within the timescales set out in this regulation the responsible authority must ensure that R visits C as soon as is reasonably practicable thereafter.”.

(14) In regulation 33(2) (timing of reviews), for “at intervals of not more than six months” substitute “where reasonably practicable thereafter”.

- (15) For regulation 36(2) (the role of the IRO) substitute—

“(2) The IRO may adjourn the review meeting for not more than 20 working days, and no proposal considered in the course of the meeting may be implemented until the review has been completed.”.

- (16) In regulation 42(2)(c) (assessment of needs) omit “and other connected persons”.

(17) In regulation 47C(3) (application of these regulations to children on remand), for the words “within five working days of” substitute “as soon as is reasonably practicable from”.

- (18) In regulation 48 (application of these regulations with modifications to short breaks)—

- (a) for paragraph (2)(c) substitute—

“(c) the arrangement is such that—

- (i) at the end of each placement, C returns to the care of C’s parent or a person who is not C’s parent but who has parental responsibility for C, and

- (ii) the short breaks do not exceed 75 days in total in any period of 12 months.”.

- (b) for paragraphs (3)(c) and (d) substitute—

“(c) regulation 28(2) does not apply, but instead the responsible authority must ensure that R visits C at regular intervals during any short break to be agreed with the IRO and C’s parents (or any person who is not C’s parent but has parental responsibility for C),

- (d) regulation 33 does not apply, but instead the responsible authority must first review C’s case as soon as is reasonably practicable from the start of the first placement, and subsequent reviews must be carried out at regular intervals during any short break,

- (e) any visit required by this regulation may be conducted by telephone, video-link or other electronic means.”.

(19) In Schedule 4 (matters to be taken into account when assessing the suitability of a connected person to care for C)—

- (a) for the heading substitute—

“Matters to be taken into account when assessing the suitability of any person to care for C”,

- (b) in the opening words to paragraph 1 omit the word “connected”,
- (c) in paragraph 1(d)(i) omit the word “connected”,
- (d) in paragraph 1(d)(v) omit the word “connected”,
- (e) for paragraph 1(e)(v) substitute—
 - “(v) particulars of relatives and any relationships with C and the person,” and
- (f) in paragraph 1(h) omit the word “connected”.

PART 8

Fostering Services

Amendment of the Fostering Services (England) Regulations 2011

9.—(1) The 2011 Regulations are amended as follows.

(2) In regulation 4(b) (review of statement of purpose and children’s guide), for “within 28 days” substitute “as soon as is reasonably practicable”.

(3) In regulation 6(3) (appointment of manager), for “without delay” substitute “as soon as is reasonably practicable”.

(4) In regulation 9 (notification of offences), for “without delay” substitute “, as soon as is reasonably practicable,”.

(5) In regulation 10 (manager), for “without delay” in both places it occurs substitute “as soon as is reasonably practicable”.

(6) In regulation 23 (constitution and membership of fostering panel)—

- (a) in paragraph (4)—
 - (i) for “must constitute” substitute “may constitute”, and
 - (ii) after “Regulations, and” insert “where a panel is constituted, the fostering service provider”,
- (b) in paragraph (7) omit “the fostering panel has sufficient members, and that”.

(7) For regulation 24(1)(iii) (meetings of fostering panel) substitute—

“(iii) one other independent person, and”.

(8) In the opening words of regulation 25(4) (functions of fostering panel), for “must also” substitute “may also”.

(9) In regulation 26 (assessment of prospective foster parent)—

- (a) in paragraph (1C)(b) for “may not be given more than 10 working days” substitute “must be sent as soon as is reasonably practicable”,
- (b) for the opening words of paragraph (2) substitute—
 - “(2) Subject to paragraphs (2A) and (3), where the fostering service provider have obtained all the information set out in paragraph (1A) and have not given the notification in paragraph (1B), the fostering service provider must—”,
- (c) in paragraph (2)(d) at the beginning insert “decide whether to refer the case to the fostering panel or to proceed to make a decision under regulation 27 without such a referral and, where the case is referred the fostering service provider must”,
- (d) after paragraph (2) insert—
 - “(2A) The fostering service provider may comply with paragraph (2)(a) even if the information required by paragraphs 2 and 9 of Schedule 3 has yet to be obtained.”, and

- (e) For the opening words to paragraph (4) substitute—
“(4) As soon as is reasonably practicable after X’s observations are received the fostering service provider must, where the case is being referred to the fostering panel, send—”,
- (10) In regulation 27 (approval of foster parents)—
 - (a) in paragraph (2)(b) at the beginning insert “where the case was referred to the fostering panel,”,
 - (b) in paragraph (3) for “A fostering” substitute “Where the case was referred to the fostering panel a fostering,”,
 - (c) in paragraph (6)(a) after “their reasons and” insert “, where the case has been referred to the fostering panel,”,
 - (d) for paragraph (9) substitute—
“(9) If within the period referred to in paragraph (6)(b) the fostering provider receive any written representations, they may refer the case to the fostering panel for further consideration and, where a case is referred, the fostering service provider must make their decision taking into account any further recommendation made by the fostering panel.”, and
 - (e) in paragraph (10) for “into account the” substitute “into account any”.
- (11) For regulation 28(2) (reviews and terminations of approval) substitute—
“(2) A review must, where reasonably practicable, take place not more than a year after approval, and thereafter whenever the fostering service provider consider it necessary.”,
- (12) In regulation 30(2)(a) (case records relating to foster carers and others) after “fostering panel” insert “(if any)”.
- (13) Omit regulation 42(2)(b)(i) (application of these regulations with modifications for short breaks).
- (14) In paragraph 2 of Schedule 3 (information as to prospective foster parent (“X”) and other members of their household and family) omit “(supported by a medical report)”, and
- (15) In Column 2 of Schedule 7 (events and notifications) omit “yes” in the 4th place in which it occurs in the column headed “chief inspector”.

PART 9

Joint Area Reviews

Amendment of the Children Act 2004 (Joint Area Reviews) Regulations 2015

10. In regulation 4(2) of the Children Act 2004 (Joint Area Reviews) Regulations 2015(a) (written statement of proposed action), after “working days” insert “, or as soon as is reasonably practicable,”.

PART 10

Children’s Homes

Amendment of the Children’s Homes (England) Regulations 2015

11.—(1) The Children’s Homes Regulations 2015(b) are amended as follows.

(2) In regulation 6(3)(c) (the quality and purpose of care standard), before “the care” insert “as far as reasonably practicable”.

(a) S.I. 2015/1792.

(b) S.I. 2015/541. Amended by S.I. 2016/211.

that assessment must continue as if the amendments made by these Regulations remain in force.

Private fostering: notifications

16. Where, during the relevant period, a local authority has received notification under regulation 3, 5 or 6 of the Children (Private Arrangements for Fostering) Regulations 2005 Regulations, the local authority may proceed as if the amendments made by these Regulations remain in force.

Children Act 1989 representations

17. Where, during the relevant period, representations have been considered in accordance with regulation 17 of the Children Act 1989 (Representations Procedure) Regulations 2006, any further consideration of those representations by a panel may proceed as if the amendments made by these Regulations remain in force.

Placement

18. Where, during the relevant period, a child has been placed in accordance with regulation 19 of the 2010 Regulations, the responsible authority may proceed as if the amendments made by these Regulations remain in force.

19. Where, during the relevant period, the responsible authority placed a child under regulation 23 of the 2010 Regulations, the placement has effect as if the amendments made by these Regulations remain in force.

Foster parents: temporary approval

20. In a case where, during the relevant period, the responsible authority —
- (a) started to approve a person as a local authority foster parent, or
 - (b) approved a person as a local authority foster parent,
- in accordance with regulation 24 of the 2010 Regulations, the responsible authority must proceed as if the amendments made by these Regulations remain in force.

Short breaks

21. In a case where, during the relevant period, a child has been placed in short breaks in accordance with —

- (a) regulation 48 of the 2010 Regulations, or
 - (b) regulation 42 of the 2011 Regulations,
- those regulations continue apply to the short breaks as if the amendments made by these Regulations remain in force.

Children's homes: deprivation of liberty

22. Where, on the 25th September 2020, a child is being deprived of their liberty in a children's home in accordance with regulation 20(3) of the Children's Homes (England) Regulations 2015, that regulation continues to have effect as if the amendment made by these Regulations remains in force.

21st April 2020

Vicky Ford
Parliamentary Under Secretary of State for Children and Families
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to England only.

These Regulations make amendments to 10 sets of Regulations to relax and amend requirements imposed under them. The amendments are being made in order to assist the children's social care sector during the coronavirus pandemic and cease to have effect on the 25th September 2020.

They amend the Adoption Agencies Regulations 2005 which set out the process for assessing the suitability of people to adopt a child and the suitability of children to be adopted. They remove the duty on adoption agencies to refer cases to the adoption panel, make some amendments to the adopter approval process, to enable information that currently has to be collected during stage 1 of the approval process to be collected during stage 2, and relax some timescales within which adoption agencies must take steps.

They amend the Care Planning, Placement and Case Review (England) Regulations 2010 which set out the requirements of the care planning process. They make it possible for any person to be approved as a local authority foster carer for a temporary period (not just a person who is a relative, friend or person connected to the child) and extend the length of that period from 16 to 24 weeks. They also increase the length of time a foster carer can be approved as an emergency foster carer to 24 weeks. A number of timescales within which local authorities must take steps are also relaxed.

They amend the Fostering Services (England) Regulations 2011 which set out the process for approvals as local authority foster parents. They relax some timescales within which fostering agencies must take steps and remove the duty on fostering service providers to refer cases to the fostering panel.

They amend the Children's Homes (England) Regulations 2015 to ensure that they don't prohibit a child being deprived of their liberty in a children's home in accordance with an exercise of powers under Schedule 21 to the Coronavirus Act 2020. A number of timescales are also relaxed.

They amend the Residential Family Centres Regulations 2002 to relax some timescales and to make it clear that interviews need not be conducted face-to-face.

They amend Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc) Regulations 2015 to omit regulation 27 which sets out the frequency by which premises must be inspected.

They amend the Children (Private Arrangements for Fostering) Regulations 2005, the Children Act 1989 Representations Procedure (England) Regulations 2006, the Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007 and the Children Act 2004 (Joint Area Reviews) Regulations 2015 to relax timescales within which local authorities must take steps.

The Regulations also include a number of savings provisions to ensure that some amendments made by these Regulations continue to apply in certain circumstances after the expiry of the amendments on 25th September 2020.

The Secretary of State must review the effectiveness of the amendments made by these Regulations during the period in which the amendments have effect.

An impact assessment has not been produced for this instrument no, or no significant, impact on the private or voluntary sector is foreseen.

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk