

The Adoption and Children (Coronavirus) (Amendment) (No.2) Regulations 2020

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These Regulations replace the Adoption and Children (Coronavirus) (Amendment) (Regulations) 2020 which made amendments to Regulations relating to children in order to relax various regulatory requirements. These Regulations have been challenged through judicial review by Article 39 and the Court of Appeal judgement is awaited. The House of Commons Joint Committee on Human Rights has recently published its report on the Government's Coronavirus Response.¹

Most of the amendments were found not to have been heavily used, as local authorities and adoption and fostering agencies were able to adapt to the restrictions imposed by the Coronavirus rules and guidance. Those that remain are explicitly allowing some required visits to take place by remote means (but only if the face-to-face meeting would breach the Guidance) and allowing adoption and fostering applications to proceed to Stage 2 even if all the information required by Stage 1 had not been obtained. This was a pragmatic approach to dealing with delays in either medical or Disclosure and Barring Service (DBS) checks which several agencies had adopted informally in any event, and does not affect the need to obtain all the required information before the application is considered by the panel and the agency decision-maker (ADM).

The majority of the amendments included in the original amendment Regulations cease to apply on 25 September 2020, but any placement, application to be approved as an adopter or foster carer, complaint, etc, started between 24 April and 25 September will be continued and completed as if the amendments were still effective.

The amendments which do still apply are:

Reg 2 Amendment of the **Residential Family Centres Regulations 2002** – allows a required interview to be carried out by phone, video or other electronic means if a face-to-face meeting would be contrary to the Guidance around transmission of coronavirus.

Reg 3 Amendment of the **Adoption Agencies Regulations 2005** – allows the adoption assessment to progress from Stage 1 to Stage 2 even if not all of the information required by Stage 1 has been obtained. The adoption agency must not make a decision until all of the information required by Stages 1 and 2 is obtained. If an adoption application is not approved because of Stage 1 information, the applicants will not be able to refer the decision to the Independent Review Mechanism (IRM).

Reg 4 Amendment of the **Care Planning, Placement and Case Review (England) Regulations 2010** – allows any visits required under Reg 28 (frequency of visits) or Reg 48 (short breaks) to be carried out by phone, video or other electronic means if a face-to-face meeting would be contrary to the Guidance around transmission of coronavirus.

¹ <https://committees.parliament.uk/publications/2649/documents/26914/default/>

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Reg 5 Amendment of the **Fostering Services (England) Regulations 2011** – allows a fostering service provider to proceed from Stage 1 to Stage 2 without having all of the information required under Stage 1, and such a decision must be recorded.

Reg 6 Amendment of the **Children’s Homes (England) Regulations 2015** – allows meetings to take place by phone, video or other electronic means if a face-to-face meeting would be contrary to Coronavirus guidance.

Reg 7 Extends Regulation 14 of the original Amendment Regulations which related to **Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (Fees and Frequency of Inspections) (Children’s Homes etc) Regulations 2015** – this suspends the requirements for OFSTED to inspect children’s homes at a fixed frequency, until 31 March 2021.

These Regulations must be reviewed during their currency and will expire on 31 March 2021.