

## **EXECUTIVE NOTE**

### **THE ADOPTION AGENCIES (SCOTLAND) AMENDMENT REGULATIONS 2010 SSI 2010/172**

1. The above instrument (the Amendment Regulations) was made in exercise of the powers conferred by sections 8 and 117(2) of the Adoption and Children (Scotland) Act 2007 (the 2007 Act). The instrument is subject to negative resolution procedure.

#### **Policy Objectives**

2. The purpose of this instrument is to make consequential amendments to the Adoption Agencies (Scotland) Regulations 2009 (the Principal Regulations) and to prescribe the information which must be provided by local authorities under section 105 of the 2007 Act. The opportunity has also been taken to correct minor errors in those Regulations. The Principal Regulations were laid before the Scottish Parliament on 23 April 2009 and came into force on 28 September 2009.

3. Regulation 2(2) and (3) make amendments to regulations 16 and 17 of the Principal Regulations in consequence of the introduction of new section 4A of the Children (Scotland) Act 1995 (the 1995 Act) by paragraph 51 of Schedule 6 to the Human Fertilisation and Embryology Act 2008. Paragraph 51 introduces a new section 4A to the 1995 Act. New section 4A allows a second female parent (as defined by section 43 of the Human Fertilisation and Embryology Act 2008), who is not a civil partner, to acquire parental responsibilities and rights in respect of the child by entering into a parental responsibility agreement with the child's mother. Section 4 of the 1995 Act allows the child's father, where he is not married to the mother, to acquire parental responsibilities and rights by entering into a registered agreement with the child's mother.

4. Regulations 16 and 17 of the Principal Regulations makes provision to place duties on adoption agencies and prescribe the information which must be given where an adoption agency proposes to make arrangements for the adoption of a child (regulation 16) or determines that an application for a permanence order with authority for the child to be adopted should be made (regulation 17). In each case the adoption agency must ascertain, where possible, whether the child's parent intends to enter into a parental responsibilities agreement under section 4 of the 1995 Act. Regulation 2(2) and (3) inserts a reference to new section 4A of that Act.

5. Section 105 of the 2007 Act applies where a local authority is proposing to make an application for a permanence order (whether or not authority for the child to be adopted is to be included) or where the local authority is made aware that an application for an adoption order has been or is to be made. The local authority is under a duty to supply "prescribed information" to the child's father where that father has no parental rights or responsibilities and is not married to the child's mother and where the local authority knows his identity and whereabouts or can reasonably obtain that information. Section 105(2) states that the local authority must give notice to the father of permanence order application or adoption order application and provide him with prescribed information "relating to the process for applying for the order in question". Regulation 2(5) and (6) introduces new provisions to prescribe the information which must be provided.

6. Regulation 2 (4) and (6) corrects typographical errors.

#### **Consultation**

7. No public consultation was carried out in relation to the amendments and corrections referred to above.

#### **Financial Effects**

8. The instrument has no significant financial effect on the Scottish Government, local government or business.

#### **Regulatory Impact**

9. A Regulatory Impact Assessment has not been submitted with the instrument as it is considered that the instrument will have no impact on business.

Children, Young People and Social Care Directorate  
April 2010