

## **EXECUTIVE NOTE**

### **THE ADOPTIONS WITH A FOREIGN ELEMENT (SCOTLAND) AMENDMENT REGULATIONS 2010 SSI 2010/173**

1. The above instrument (the Amendment Regulations) was made in exercise of the powers conferred by section 1(1) to (3) and (5) of the Adoption (Intercountry Aspects) Act 1999 and section 8 of the Adoption and Children (Scotland) Act 2007. The instrument is subject to negative resolution procedure.

#### **Policy Objectives**

2. The purpose of this instrument is to make amendments to the Adoptions with a Foreign Element (Scotland) Regulations 2009 (the Principal Regulations) which were laid before the Scottish Parliament on 15 May 2009 and came into force on 28 September 2009.

3. Regulation 2 makes amendments to regulations 21 and 22 of the Principal Regulations to bring procedures concerning the issuing of certain agreements between central authorities to the Hague Convention in line with the rest of the UK and other “receiving states”

4. The amendment in Regulation 2(2) removes the requirement for the applicants to have met the child prior to agreement between the Scottish Government and the foreign authority that the adoption can proceed. This agreement is not constitute an adoption order nor does it form a final agreement binding the adopters to a specific child if it becomes evident that the child is not suitable. However, I does allow the adoption process to continue within the procedures of the 1993 Hague Convention for the Protection of Children and Co-operation in respect of Intercountry Adoption (“the Hague Convention”).

5. The requirement for the prospective adopters to inform the adoption agency that they have met with the child and that they are content to proceed with the adoption is reinstated in a new Regulation 21(5A). This now takes place after the agreement between the Scottish Government and the foreign authority has been made.

6. Regulation 2(3) amends Regulation 22 in consequence of the changes to procedure above. The amendment requires the adoption agency to inform the Scottish Government if the prospective adopters decide, prior to an adoption order being made, that they do not wish to proceed with the adoption. Previously this requirement occurred prior to “the child being placed with the prospective adopters” when this happened prior to agreements being made.

#### **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  
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