

## **EXECUTIVE NOTE**

### **THE CURATORS AD LITEM AND REPORTING OFFICERS (PANELS) AND THE PANELS OF PERSONS TO SAFEGUARD THE INTERESTS OF CHILDREN (SCOTLAND) AMENDMENT REGULATIONS 2011**

#### **SSI 2011/320**

The above instrument is made in exercise of the powers conferred by section 101 and 103(3) of the Children (Scotland) Act 1995. Section 101 has been amended by 2001 asp 8, section 75(a), 2007 asp 4, schedule 2, paragraph 9(9) and by 2011 asp 1, schedule 6 (which amendments are not yet in force). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

The Regulations make amendments to the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001 in consequence of the Adoption and Children (Scotland) Act 2007 which repealed and replaced the Adoption (Scotland) Act 1978.

In addition the Regulations make minor amendments to the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001 and the Panels of Persons to Safeguard the Interests of Children (Scotland) Regulations 2001 to replace a cross reference to the Children's Hearings (Legal Representation) (Scotland) Rules 2001 ("the 2001 Rules") with a reference to the Children's Hearings (Legal Representation) (Scotland) Rules 2002 which repealed and replaced the 2001 Rules.

#### **Policy objectives**

These regulations make minor technical amendments to the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001 in consequence to the repeal of the Adoption (Scotland) Act 1978. These amendments include changes to the definitions of "adoption agency", "court", and references to the relevant primary legislation.

In regulation 3 of the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001 amendments have been made in order that the responsibility to maintain and appoint members to a panel remains with the local authority. Changes have been made to reflect the new legislative arrangements and the new Permanence Order introduced by the Adoption and Children (Scotland) Act 2007. This change effectively maintains the status quo.

Regulations 4 and 6 refer to the appointments to the panel. References to the 1995 Act have been changed to reflect the repeal of the provisions by the Adoption and Children (Scotland) Act 2007. References to the provisions for adoption hearings in the Adoption and Children (Scotland) Act 2007 have replaced the older references to the Adoption (Scotland) Act 1978.

References to the previous legislation have been retained in regulation 7 in order that terminations can take place following a report from a court which is hearing a petition under the previous legislation. References to the new legislation have been added to regulation 7 in order that these reports can also be provided in the future. Rather than repeal the older provisions, they have been maintained to legislate for people who are still acting as curators ad litem appointed by virtue of those provisions.

Regulation 10 provides for the various circumstances when Curators ad Litem and Reporting Officers are appointed from the panels constituted under these Regulations and who sets and pays the fees. Amendments have been made in this instance to ensure that the regulation covers Curators appointed under the new provisions for adoption orders. References to permanence order application, variations and terminations have also been added as this is a replacement for freeing orders under sections 18 and 20 of the Adoption (Scotland) Act 1978. This will maintain the status quo with respect to who should set and pay the fees.

The regulations also make minor amendments to the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001 and the Panels of Persons to Safeguard the Interests of Children (Scotland) Regulations 2001 to update the reference to the Children's Hearings (Legal Representation) (Scotland) Rules

### **Commencement Date**

The date for the commencement of these regulations is 3 November 2011.

### **Consultation**

There has been no public consultation on this instrument.

### **Impact assessments**

There are no equality impact issues.

### **Financial effects**

The Minister for Children and Young People confirms that no BRIA is necessary as the instrument has no additional financial effects on the Scottish Government, local government or business.

**Scottish Government  
Children and Families Directorate.**

**September 2011**