

## **POLICY NOTE**

### **THE ADOPTION (RECOGNITION OF OVERSEAS ADOPTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2013**

#### **SSI 2013/335**

1. The above instrument is made in exercise of the powers conferred on the Scottish Ministers by sections 67(1) and 117(3) of the Adoption and Children (Scotland) Act 2007(asp 4), and all other powers enabling them to do so. It is subject to the negative procedure.

#### **Purpose of the instrument**

2. These Regulations are being made to correct a defect in the Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013 (“the 2013 Regulations”) and come into force on 3rd January 2014.

3. Regulation 2 amends regulation 3 of the 2013 Regulations to make it clear that an overseas adoption as specified in that regulation will only be recognised if it is effected on or after the coming into force of the 2013 Regulations, which is also 3rd January 2014.

4. The purpose of the 2013 Regulations is to ensure that adoption orders effected in a foreign country or territory are only recognised as overseas adoptions when they conform to current policy. That policy is that the processes followed to obtain the adoption order in the foreign country or territory are robust and provide safeguards equivalent to those used in Scottish domestic adoptions.

5. To ensure that this policy is achieved, the 2013 Regulations only include countries that have implemented the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (“the Convention”). The Regulations could, in future, also be amended to recognise adoptions effected under the law of any country outside the British Islands that has signed the Convention and with which the United Kingdom has a bilateral agreement which reflects the Convention principles.

6. This amendment is necessary in order to clarify that any foreign adoptions effected in the countries listed in the Schedule to the 2013 Regulations prior to the coming into force date of 3rd January 2014 will not be recognised as overseas adoptions. This is to safeguard the welfare and protection interests of the children in case any historic foreign adoptions have not followed robust processes and have not provided safeguards equivalent to those used in Scottish domestic adoptions. The only instance where overseas adoptions which were effected before the Regulations come into force will continue to be recognised is where the country or territory in which the adoption was effected was also listed under the Adoption (Designation of Overseas Adoptions) Order 1973 and was therefore recognised by virtue of that Order.

## **Consultation**

7. As these Regulations make a minor amendment to earlier Regulations, no consultation has been undertaken. A joint UK public consultation (led by the Department for Education with input from the devolved administrations) was carried out on the original Regulations.

## **Financial Effects**

6. These Regulations will have no financial impact, and no impact on individuals and households.

## **Impact Assessments**

7. An EQIA has not been prepared for this instrument because the impact will be minimal.

8. A BRIA has not been prepared for this instrument because the impact will be minimal.

**Scottish Government**  
**Children and Families Directorate**  
November 2013