

POLICY NOTE

THE ADOPTION AND CHILDREN (SCOTLAND) ACT 2007 (COMPULSORY SUPERVISION ORDER REPORTS IN APPLICATIONS FOR PERMANENCE ORDERS) REGULATIONS 2014

SSI 2014/113

1. The above instrument (“the Regulations”) was made in exercise of the powers conferred by section 95(2) of the Adoption and Children (Scotland) Act 2007 (“the 2007 Act”). The instrument is subject to negative resolution procedure. The purpose of the Regulations is to prescribe the information which must be contained in the report submitted to the court by the children’s hearing if the hearing wishes to make or vary a compulsory supervision order, while the court is considering an application for a Permanence Order in respect of the child.

Legislative Background

2. Section 95 of the 2007 Act required a children’s hearing to prepare a report for a court if the hearing wishes to make or vary a supervision requirement with respect to a child who is also subject to an undetermined application for a Permanence Order, or a variation of such an Order. Section 95(2) requires that this report must contain such information as the Scottish Ministers may prescribe by regulations.

3. The Adoption and Children (Scotland) Act 2007 (Supervision Requirement Reports in Applications for Permanence Orders) Regulations 2009 (SI 2009/169) (“the 2009 Regulations”) currently set out the requirements for the purposes of section 95(2).

4. The Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”) repealed and replaced most of Chapter 3 of Part II of the Children (Scotland) Act (“the 1995 Act”) and strengthens and modernises Scotland’s Children’s Hearings System by introducing a number of procedural changes. The Children’s Hearings (Scotland) Act 2011 (Modification of Primary Legislation Order 2013 (SI 2013/211) (“the 2013 Order”) consequentially amended section 95(1)(c) of the 2007 Act to replace the references there to “supervision requirements” with references to “compulsory supervision orders” under the 2011 Act.

Policy objectives

5. The 2009 Regulations should have been consequentially amended or replaced in their entirety at the same time as the amendment of section 95 by the 2013 Order, however, this was overlooked at the time. The necessary consequential changes are now being made by revoking and replacing the 2009 Regulations in their entirety. In view of the size of the 2009 Regulations (only 3 regulations long), the extent of the changes to be made and for ease of use by the reader we decided the best approach was to revoke the 2009 Regulations and replace them in their entirety using the powers in section 95(2) of the 2007 Act rather than amend in a piecemeal way in a consequential modifications order under the powers in section 204 of the 2011 Act. There are no substantive changes in policy in this Order which seeks to replace 1995 Act references with their 2011 Act equivalents.

Commencement

6. The Regulations will come into effect on 2nd June 2014.

Consultation

7. A formal consultation exercise was not undertaken given the technical nature of the Regulations.

Impact Assessments

8. It has not been considered necessary to prepare an equality impact assessment for this instrument as it has no effect on equality issues.

Financial Effects

9. Information should already be supplied to the court when a children's hearing is considering compulsory supervision measures for a child subject to court proceedings. The Regulations prescribe what should go into this report to the court. It is envisaged that there will be no financial effects on the Scottish Government, local government or on business with regard to the provisions in the Regulations.

Scottish Government
Children and Families Directorate
April 2014