

## **POLICY NOTE**

### **THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014 (COMMENCEMENT NO. 10 AND SAVING PROVISION) ORDER 2015**

#### **SSI 2015/406 (C. 51)**

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by sections 102(3) and (4) of the Children and Young People (Scotland) Act 2014 (“the 2014 Act”). The instrument is laid before the Scottish Parliament in accordance with section 30(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

#### **Policy Objectives**

2. The Order forms part of an implementation package for the 2014 Act. The provisions in the Act are being commenced in several stages. The purpose of this Order is to commence, or further commence, certain provisions of the 2014 Act as follows.

3. Section 91 of the 2014 Act (which inserts a new section 44A into the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) is now commenced so far as not already in force, with effect from 1 February 2016. Section 44A creates a right of appeal to the sheriff against a decision by a local authority to detain a child in secure accommodation in pursuance of an order made under section 44 of the 1995 Act. Section 91 was partially commenced by an earlier commencement order for the purpose of enabling the Scottish Ministers to make regulations under section 44A(5) (those regulations have now been laid in draft, with a commencement date of 1 February 2016).

4. The Order partially commences provisions within Parts 4 (provision of named persons) and 5 (child’s plan) of the 2014 Act, with effect from 5 January 2016, to enable the Scottish Ministers to make orders in accordance with the powers contained in those Parts.

5. The Order also commences section 96 of the 2014 Act (which relates to the assessment of wellbeing under the Act) so far as not already in force, with effect from 5 January 2016. This section has been partially commenced by earlier commencement orders.

6. Sections 71 and 73 of the 2014 Act are commenced so far as not already in force, with effect from 1 April 2016. These sections are contained within Part 13 of the 2014 Act (support for kinship care) and were partially commenced by an earlier commencement order for the purpose of enabling the Scottish Ministers to make orders under the sections.

7. The Order also commences section 75 of, and paragraph 11(1), (5) and (6) of schedule 5 to, the 2014 Act so far as not already in force, with effect from 1 April 2016. These provisions relate to Scotland’s Adoption Register, and amendments to the Adoption and Children (Scotland) Act 2007 (“the 2007 Act”). They were partially commenced by an earlier commencement order for the purpose of enabling the Scottish Ministers to make regulations under section 13A(2) of the 2007 Act. Section 98 of the 2014 Act is partially commenced to allow the paragraphs of the schedule to operate.

## **Saving provision**

8. Article 4 contains a saving provision so that, despite the Order commencing section 91 of the 2014 Act on 1 February 2016, the 1995 Act will continue to apply as it did before that date (i.e. without the appeal right in section 44A) in relation to any decision to detain a child in secure accommodation in pursuance of an order made under section 44 of the 1995 Act, where that decision was taken before 1 February 2016.

## **Consultation**

9. No consultation was carried out in relation to this instrument, however, formal consultation took place on the Children and Young People (Scotland) Bill pre-introduction. Consultation on the 2014 Act is continuing as part of the implementation process. Informal consultation with stakeholders took place during the parliamentary process and is also continuing, as well as formal consultation procedures in relation to certain parts of the 2014 Act.

## **Impact Assessments**

10. An equality impact assessment and a business regulatory impact assessment were carried out for the Children and Young People (Scotland) Bill. A privacy impact assessment was undertaken throughout the parliamentary process. These impact assessments are available on the Scottish Government website (<http://www.gov.scot/Topics/People/Young-People/legislation/impact>).

## **Financial Effects**

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

Scottish Government  
Children and Families Directorate  
November 2015