

POLICY NOTE

THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014 (COMMENCEMENT NO. 11) PARTIAL REVOCATION ORDER 2016

SSI 2016/233 (C. 20)

1. The above instrument has been made by the Scottish Ministers under powers conferred upon them by section 102(3) of the Children and Young People (Scotland) Act 2014 (“the 2014 Act”).
2. The instrument is not subject to any parliamentary procedure.

Background

3. The Children and Young People (Scotland) Act 2014 (Commencement No. 11) Order 2016 (S.S.I. 2016/60) brings into force provisions of the 2014 Act. That Order commences a number of sections of the 2014 Act including all of the sections in Parts 4 and 5 (sections 19 to 45), so far as not already in force, plus schedules 2 and 3 which relate to Parts 4 and 5, with effect from 31st August 2016.
4. Part 4 of the 2014 Act has been the subject of a judicial review, which was brought by the Christian Institute and others, and was appealed to the UK Supreme Court. The Supreme Court hearing took place on 8 and 9 March 2016, and the Court’s judgment was handed down on 28 July 2016.
5. The Supreme Court found that the information sharing provisions of Part 4 of the 2014 Act are not within the legislative competence of the Scottish Parliament.
6. In order to complete the process required to remedy this issue, commencement of Parts 4 and 5 of the 2014 Act must be halted. This is being done by a package of 3 instruments which are: this Order; the Named Persons (Training, Qualifications, Experience and Position) and the Child’s Plan (Scotland) Revocation Order 2016; and the Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Revocation Order 2016.
7. This Order partially revokes the Children and Young People (Scotland) Act 2014 (Commencement No. 11) Order 2016 by removing from that Order commencement of sections 19 to 45 and schedules 2 and 3 of the 2014 Act. The other sections of the 2014 Act commenced by S.S.I. 2016/60 remain and will commence on 31st August 2016.

Consultation

8. No consultation has been carried out specific to this Order.

Financial Effects

9. There will be no additional financial implications/costs as a result of this Order.

Scottish Government
Directorate for Children and Families
August 2016