

POLICY NOTE

THE NAMED PERSONS (TRAINING, QUALIFICATIONS, EXPERIENCE AND POSITION) AND THE CHILD'S PLAN (SCOTLAND) REVOCATION ORDER 2016

SSI 2016/234

1. The above instrument has been made by the Scottish Ministers under powers conferred upon them by sections 19(3)(b), 34(4), 35(8), 35(9), 39(6), 99(1)(a) and 99(1)(b) of the Children and Young People (Scotland) Act 2014 (“the 2014 Act”).
2. The instrument is subject to negative procedure.

Background

3. The Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order 2016 (S.S.I. 2016/16) specifies the requirements as to training, qualifications, experience and position that are necessary in order to be identified as the named person for a child or young person for the purposes of Part 4 of the 2014 Act. The Child's Plan (Scotland) Order 2016 (S.S.I. 2016/17) makes further provision in respect of child's plans for the purposes of Part 5 of the 2014 Act. The provisions of Part 5 of the 2014 Act are dependent on the provisions of Part 4.
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 and the Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order 2016 (S.S.I. 2016/16) and the Child's Plan (Scotland) Order 2016 (S.S.I. 2016/17) must be revoked. This is being done by a package of 3 instruments which are: this Order; the Children and Young People (Scotland) Act 2014 (Commencement No. 11) Partial Revocation Order 2016; and the Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Revocation Order 2016.
7. This Order revokes the Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order 2016 and the Child's Plan (Scotland) Order 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