

## **EXPLANATORY MEMORANDUM TO**

### **The Public Guardian (Fees, etc)(Amendment ) Regulations 2007**

#### **2007 No. 2616**

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

#### **2. Description**

- 2.1. This explanatory memorandum covers a short statutory instrument made under the Mental Capacity Act 2005 (“the Act”). The instrument is correctional in nature and makes a minor drafting amendment to existing secondary legislation under the Act. It amends regulation 9 of The Public Guardian (Fees, etc) Regulations SI 2007/2051. Regulation 9 of SI 2007/2051 sets out the statutory exemptions from fees charged by the Public Guardian. The amending instrument removes the word “child” from regulation 9(7)(b)(ii).

#### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1. The instrument has been made in consequence of a minor error in SI 2007/2051 and is therefore being issued free of charge to all known recipients of that statutory instrument.

#### **4. Legislative Background**

- 4.1. The order is made by the Lord Chancellor under sections 58(3) and (4) and 65(1)(b) of the Act.
- 4.2. No undertakings relating to this instrument were given to Parliament at the time of the passage of the Act.

#### **5. Extent**

- 5.1. These regulations apply to England and Wales only.

#### **6. European Convention on Human Rights**

- 6.1. As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy Background**

- 7.1. There are no additional policy matters introduced by this instrument.

- 7.2. The Public Guardian (Fees, etc) Regulations were made in June 2007 and laid before Parliament on 19 July. They will come into force on 1 October 2007 with the rest of the Act. The amendment SI will also come into force on 1 October 2007.
- 7.3. The instrument has not been subject to any consultation process as it corrects a minor drafting error and does not introduce any new policy.
- 7.4. The instrument creates no penalties or sanctions.

## **8. Impact**

- 8.1. A Full Regulatory Impact Assessment (RIA) was produced for the passage of the Mental Capacity Act 2005. The RIA considered the benefits, cost and risks of setting up a statutory framework for decision making. There is no additional impact as a consequence of this instrument.

## **9. Contact**

- 9.1. Any enquiries about the contents of this memorandum should be addressed to: Nicola Webster, Mental Capacity Implementation Programme, Ministry of Justice  
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