

## **POLICY NOTE**

### **THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (TRANSFER OF CHILDREN TO SCOTLAND – EFFECT OF ORDERS MADE IN ENGLAND AND WALES OR NORTHERN IRELAND) REGULATIONS 2013**

#### **SSI 2013/**

The above instrument is made in exercise of the powers conferred by section 190(1) of the Children's Hearings (Scotland) Act 2011 ('the 2011 Act'). The regulations cover the movement of a child to Scotland who is under a specified non-Scottish order which has the same general effect as a compulsory supervision order (CSO). The non-Scottish order would then have effect as if it were a CSO if the receiving local authority in Scotland agrees to accept the child. A non-Scottish Order would be an order made in England, Wales or Northern Ireland.

The powers provided in section 190 of the 2011 Act are similar to those in section 33 of the Children (Scotland) Act 1995 ('the 1995 Act') and parallel the previous regulatory arrangements for children moving to Scotland - The Children (Reciprocal Enforcement of Prescribed Orders etc. (England and Wales and Northern Ireland)) (Scotland) Regulations 1996 – which were made under the 1995 Act. Those Regulations will be revoked when the 2011 Act is fully in force.

The 1996 Regulations also covered children moving from Scotland to the rest of the United Kingdom. The Scottish Parliament does not have the legislative power to make provisions for a child moving outwith Scotland under a Scottish order to be accepted by another UK partner; and consequently there is no provision for this in the 2011 Act. However Scottish Ministers still wish CSOs to have effect as if converted into a relevant UK order when a child moves from Scotland. This requires UK legislation and a section 104 order under the Scotland Act 1998 is planned for this purpose.

#### **Policy objectives**

The regulations cover the effects of care, supervision orders and education orders made in England, Wales and Northern Ireland. The regulations also cover the approval required where appropriate from courts and the procedure to be followed by the local authorities in each country. Once all relevant approval and consent is in place the care order, supervision order or education supervision order will have effect as if it were a compulsory supervision order.

#### **Commencement Date**

The date for the commencement of these regulations is 24 June 2013.

#### **Consultation**

There has been an open public consultation on this instrument which ran for 12 weeks from December 2011 to March 2012. A total of 5 responses were received to that consultation and the instrument was re-drafted, as appropriate, to take account of comments made.

**Impact assessments**

There are no equality impact issues.

**Financial effects**

There are no likely financial effects on organisations or individuals from these regulations

**Scottish Government  
Children and Families Directorate.**

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