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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2016 No.**

**CHILDREN AND YOUNG PERSONS**

**The Kinship Care Assistance (Scotland) Order 2016**

*Made* - - - - *2016*

*Coming into force* - - *1st April 2016*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 71(2) and (5)(b) and 73(3) of the Children and Young People (Scotland) Act 2014(a), and all other powers enabling them to do so.

In accordance with section 99(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the Kinship Care Assistance (Scotland) Order 2016 and comes into force on 1st April 2016.

**Interpretation**

2. In this Order “the Act” means the Children and Young People (Scotland) Act 2014.

**Manner of providing kinship care assistance**

3. A local authority must provide kinship care assistance in such a way as to safeguard, support and promote the wellbeing of an eligible child.

**Kinship care assistance**

4. For the purposes of section 71(2) of the Act, the following assistance is specified—

- (a) in relation to a person falling within section 71(3)(a) of the Act where the person is considering applying for a kinship care order, the provision of such information and advice as that person may reasonably require for the purpose of making a decision about that matter;

- (b) in relation to a person falling within section 71(3)(a) of the Act where the person is applying for a kinship care order the provision of—
  - (i) such information and advice as that person may reasonably require for the purpose of the application; and
  - (ii) financial support towards the cost of the application;
- (c) in relation to a child falling within section 71(3)(b) of the Act, the provision of such information and advice as that child may reasonably require for the purpose of facilitating the placement under a kinship care order;
- (d) in relation to a person falling within section 71(3)(c) of the Act—
  - (i) the provision of such information and advice as that person may reasonably require in relation to a kinship care order; and
  - (ii) the provision of an allowance;
- (e) in relation to a child falling within section 71(3)(d) of the Act—
  - (i) the provision of such information and advice as that child may reasonably require for the purpose of facilitating a transition following a placement under a kinship care order; and
  - (ii) when the local authority considers it appropriate, the provision of an allowance;
- (f) in relation to a person falling within section 71(3)(e) of the Act—
  - (i) the provision of such information and advice as that person may reasonably require in relation to a kinship care order; and
  - (ii) the provision of an allowance;
- (g) in relation to a child falling within section 71(3)(f) of the Act—
  - (i) the provision of such information and advice as that child may reasonably require for the purpose of facilitating that child’s placement with a guardian; and
  - (ii) when the local authority considers it appropriate the provision of an allowance.

**Extension of the definition of eligible child**

5. The description specified for the purpose of section 71(5)(b) of the Act is a child who was previously looked after.

**Factors to be taken into account in determining whether a child is at risk of becoming looked after**

6. For the purpose of considering whether a child is within section 71(5)(a) of the Act, a local authority must consider whether the child’s wellbeing is being, or is at risk of being, adversely affected by any matter, such that the child is at risk of becoming looked after.

**Application for types of kinship care assistance**

7. A person who seeks kinship care assistance of a type described in article 4(b)(ii), (d)(ii), (e)(ii), f(ii) or g(ii) must apply to a local authority.

**Notification of decision**

8.—(1) A local authority must notify a person who applies for kinship care assistance described in article 7 of that local authority’s decision, and the reasons for that decision, as soon as reasonably practicable.

(2) Notice under paragraph (1) which relates to a payment must include, where applicable—

- (a) the method of determination of the amount;

- (b) where kinship care assistance is to be paid by instalments—
  - (i) the amount of each instalment;
  - (ii) the frequency of the payment;
  - (iii) the period for which kinship care assistance is to be paid; and
  - (iv) the date of the first payment;
- (c) where kinship care assistance is to be paid as a single payment, the amount and the date the payment is to be made.

**Publication of information about kinship care assistance**

**9.**—(1) A local authority must publish information in relation to the provision of kinship care assistance in that local authority's area, including—

- (a) the local authority's policy in relation to provision of kinship care assistance;
- (b) the local authority assessment criteria for a kinship care placement;
- (c) the local authority's application process for kinship care assistance of a type defined in article 4(b)(ii), (d)(ii), (e)(ii), (f)(ii) or (g)(ii);
- (d) the rate at which allowances are payable;
- (e) any further information that the local authority considers relevant.

(2) A local authority must—

- (a) keep published information under review; and
- (b) where appropriate, publish revised information.

St Andrew's House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order make provision for the duties and functions of local authorities in respect to kinship care assistance.

Article 3 provides that a local authority must have regard to the wellbeing of the child in the consideration of the provision of kinship care assistance.

Article 4 specifies the categories of kinship care assistance provided by local authorities.

Article 5 specifies the circumstances in which a child is an eligible child for the purpose of section 71(5) of the Children and Young People (Scotland) Act 2014.

Article 6 specifies the factors which a local authority must consider as to whether a child is at risk of becoming looked after.

Article 7 specifies the types of kinship care assistance that require an application.

Article 8 provides that a local authority must notify the applicant of the decision to provide kinship care assistance or financial support falling within article 4(b)(ii), (d)(ii), (e)(ii), (f)(ii) and (g)(ii).

Article 9 provides that local authorities must publish information about the provision of kinship care assistance.

A Business Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. A copy of this can be obtained from the Directorate for Children and Families and from the Scottish Government website.

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