

**EXPLANATORY MEMORANDUM TO**  
**THE GUARDIANS AD LITEM (PANEL) (REVOCATION) REGULATIONS**  
**(NORTHERN IRELAND) 2023**

**S.R. 2023 No. 13**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health (the Department) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 60(7) and (9) of the Children (Northern Ireland) Order 1995 (the Children Order) and Article 66A(1) and (2) of the Adoption (Northern Ireland) Order 1987 (the 1987 Order) and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1. These Regulations revoke the Guardians Ad Litem (Panel) Regulations (Northern Ireland) 1996 ("the 1996 Panel Regulations") (S.R. 1996/128), which establish a panel of persons from which Guardians ad Litem (GaLs) must be selected.

**3. Background**

- 3.1. The Northern Ireland Guardian Ad Litem Agency (NIGALA) provides GaLs who are appointed by the court to represent children in family law proceedings, including care and adoption proceedings. Article 60 of the Children Order and Article 66 of the 1987 Order govern the appointment of GaLs by specifying which proceedings they can be appointed for.
- 3.2. Article 60(7) and (9) of the Children Order and Article 66A(1) and (2) of the 1987 Order empower the Department, by way of regulations, to provide for the establishment of panels of persons from whom GaLs must be selected. The 1996 Panel Regulations established such a panel. However, such Panel arrangements are now no longer in operation or required, with GaLs now being directly employed or approved by NIGALA. As a result, the 1996 Panel Regulations are no longer necessary.
- 3.3. The 1996 Panel Regulations are being revoked alongside the making of two other Statutory Rules which will change the name of the GaL to the Children's Court Guardian (CCG) and also the name of NIGALA, which will be renamed the Children's Court Guardian Agency for Northern Ireland (CCGANI). The Adoption and Children (2022 Act) (Commencement No. 1) Order (Northern Ireland) 2023 (S.R. 2023/XX) commences section 137 of the Adoption and Children Act (Northern Ireland) 2022 (the 2022 Act) to provide for the GaL name change. The Children's Court Guardian Agency for Northern Ireland (Establishment and Constitution) Order (Northern Ireland) 2023 (S.R. 2023/XX) revokes and replaces the Northern Ireland Guardian ad Litem Agency (Establishment and Constitution) Order (Northern Ireland) 1995 (S.R. 1995/397) to change the name of NIGALA. As the title of the 1996 Panel

Regulations includes a reference to GaLs, the Regulations would need to be replaced in order to reflect the new name. On the basis that they are no longer considered necessary, it is therefore considered appropriate to proceed now to revoke them.

- 3.4. The 2022 Act also contains provision, in sections 106 and 136, to replace the current panel requirements (as currently provided for in Article 60 of the Children Order and Article 66A of the 1987 Order) with a power for the Department, by way of regulations, to provide that CCGs appointed under section 106 or Article 60 of the Children Order (as amended) must be selected from persons employed or approved for that purpose by such special agency or other public body as may be prescribed. These provisions cannot be commenced, and the associated regulations made, until other provisions of the 2022 Act are also commenced in 2025/26. In the meantime, in the absence of the 1996 Panel Regulations, the CCGANI will not be required to appoint CCGs to a Panel.

#### **4. Consultation**

- 4.1. In 2017, as part of a public consultation on the draft Adoption and Children Bill, the Department sought views on whether to make legislative amendments to enable GaLs to be directly employed (rather than admitted to a panel) and appointed by the courts to represent children in family law proceedings. The majority of respondents were in favour of the proposal, with no one disagreeing. The consultation document and the consultation report are available on the Department of Health's website at <https://www.health-ni.gov.uk/consultations/adoption-and-children-northern-ireland-bill>.

#### **5. Equality Impact**

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposal in these Regulations. The Department has concluded that the proposals would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

#### **6. Regulatory Impact**

- 6.1. A regulatory impact assessment has not been carried out for these Regulations because it is not anticipated that there will be any adverse impact on business, charities or voluntary bodies, or on the public sector.

#### **7. Financial Implications**

- 7.1. No associated costs.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. Consideration has been given to the human rights implications of these Regulations. They are considered compatible with section 24 of the Northern Ireland Act 1998.

#### **9. EU Implications**

- 9.1. Not applicable.

**10. Parity or Replicatory Measure**

10.1. None.

**11. Additional Information**

11.1. Not applicable.