

EXECUTIVE NOTE

THE LOOKED AFTER CHILDREN (SCOTLAND) AMENDMENT REGULATIONS 2009 (SSI 2009/290)

The above instrument (referred to in this note as “the Amendment Regulations”) was made in exercise of the powers conferred by section 5(2), (3) and (4) of the Social Work (Scotland) Act 1968 and sections 17, 31 and 103(2) and (3) of the Children (Scotland) Act 1995. The instrument is subject to negative resolution procedure and the intention is that it will come into force on 28 September 2009.

Policy Objectives

The purpose of this instrument is to make corrections and minor amendments to the Looked After Children (Scotland) Regulations 2009 which were laid before the Scottish Parliament on 3rd June 2009 and are also due to come into force on 28th September 2009.

The Amendment Regulations make changes to include a reference to civil partnership status in Schedule 3. That Schedule prescribes the information which must be obtained by the local authority when a person is being considered for approval either as a kinship carer or a foster carer. The amendment adds the words ‘civil partnership’ in paragraph 1 so that a person’s marital and civil partnership status must be ascertained as well as details of any previous marriage and any previous civil partnership. A further amendment is also made to paragraphs 2 and 9 of this Schedule to include references to ‘kinship’ carer. Schedule 4, paragraph 7 is amended to include a reference to Schedule 6. That paragraph refers to foster and kinship care agreements. Those agreements are drawn up in the terms set out in Schedule 5 (for kinship carers) and 6 (for foster carers).

Regulation 48(2) allows a Local Authority to delegate some of its functions with respect to looked after children and fostering to registered fostering providers, has also been adjusted (regulation 2(4) of the Amendment Regulations). This amendment will remove the power to delegate functions under Parts II (care planning), III (general matters affecting looked after children), XI (case records) and XII (review of child’s case). It also adds functions under Part VII (fostering) to the list which may be delegated. This reflects the fact that Local Authorities assume responsibility for those functions which are more properly carried out by them whilst allowing them to delegate some functions which may properly be carried out by registered fostering services. The amendments in regulation 2(3) are consequential upon that change.

Regulation 33(1)(b) has also been amended to correct a typographical error in the reference to the Children (Scotland) Act 1995.

Consultation

No public consultation was carried out in relation to the corrections outlined above. However, stakeholders including local authorities, the Fostering Network, and British Association of Adoption and Fostering were part of the discussions surrounding the changes.

Financial effects

The instrument has no financial effect on the Scottish Government, local government or business.

Regulatory Impact

No Regulatory Impact Assessment has been prepared in respect of these Regulations as the changes have no impact on the cost to business.

Scottish Government
Care and Justice (CYPSC)
13 August 2009