

POLICY NOTE

THE ADULTS WITH INCAPACITY (SUPERVISION OF WELFARE GUARDIANS ETC. BY LOCAL AUTHORITIES) (SCOTLAND) AMENDMENT (No. 2) REGULATIONS 2014

S.S.I. 2014/157

The above instrument was made in exercise of the powers conferred by sections 10(3)(a) and 86(2) of the Adults with Incapacity (Scotland) Act 2000 (“the 2000 Act”). The instrument is subject to negative resolution procedure.

Policy Objectives

This instrument corrects an erroneous cross reference in the Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment Regulations 2014 (S.S.I. 2014/123; “the amending Regulations”). The amending Regulations in turn amended the Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Regulations 2002 (SSI 2002/95; “the principal Regulations”).

The Scottish Government gave an undertaking to the Delegated Powers and Law Reform Committee of the Scottish Parliament to bring forward this instrument.

The amendment relates to regulation 2A of the principal Regulations, as inserted by the amending Regulations. That regulation provides, amongst other things, for a local authority, having previously varied the arrangements for visits to an adult or guardian, to vary the arrangements again to revert back to the interval between visits prescribed in regulation 2(1) of the principal Regulations. The text, in regulation 2A(5)(a) cross refers to the interval prescribed for a visits to a guardian in regulation 2(1)(b) of the principal Regulations, and should refer instead to the interval for visits to an adult or guardian prescribed in regulation 2(1) generally. There is therefore a risk that regulation 2A(5)(a) would have the effect of only allowing a variation of visits back to intervals of not more than twelve months for visits to the adult when the intention was to allow this for visits to the adult and the guardian.

The amending Regulations come into force on 9th June 2014. This instrument comes into force on 12th August 2014. As the relevant provision only applies where a local authority has previously decided to vary the visits to an adult or guardian and is then considering varying those arrangements again, this situation is highly unlikely to arise in the period between 9th June and 12th August. As a result, no adult, guardian or local authority will be disadvantaged or otherwise adversely affected by the period between the two instruments.

Financial Effects

No additional costs will fall on the Scottish Government or local government as a result of this instrument. The amending Regulations made provision for a more flexible and risk based approach to supervisory visits to enable local authorities to better target their available resources.

Equality Impact Assessment

An equality impact assessment has not been produced in connection with this instrument.

Scottish Government Civil Law and Legal System Division
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