

**EXPLANATORY MEMORANDUM TO**  
**THE TRANSFER OF FUNCTIONS (CHILDREN, YOUNG PEOPLE AND FAMILIES)**  
**ORDER 2005**

**2005 No.252**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs in conjunction with the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1. This Order transfers the Lord Chancellor's functions in relation to the inspection of Children and Family Court Advisory and Support Service ('CAFCASS'), as contained in the Courts Act 2003, to the Secretary of State for Education and Skills. It is being made as an addition to an earlier transfer order (SI 2003 No 3191) transferring similar provisions.

**3. Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1. None.

**4. Legislative Background**

4.1. The creation of a Minister for Children, Young People and Families within the Department for Education and Skills meant that certain functions given by statute to the Lord Chancellor involving children were transferred to the Secretary of State for Education and Skills. It was agreed that the new Minister would take control of the Children and Family Court Advisory and Support Service ('CAFCASS'), grants in marriage and relationship support and private law matters in relation to children. Therefore the Lord Chancellor's functions in relation to these matters were transferred under SI 2003 No 3191. Functions contained in the Justice of the Peace Act 1997 relating to the inspection of CAFCASS were transferred in that order.

4.2. The Justices of the Peace Act 1997 will be repealed from 31 March 2005 and the equivalent provisions in the Courts Act 2003 on inspection of CAFCASS will be commenced from 1 April 2005. This order is therefore required to maintain the position effected by SI 2003 No 3191.

**5. Extent**

5.1. This instrument applies to England and Wales.

**6. European Convention on Human Rights**

6.1. Not Applicable.

## **7. Policy Background**

7.1. This Order meets Government policy by placing responsibility for certain functions in relation to children in the Department that has primary responsibility for services for children. It maintains the legislative position effected by SI 2003 No 3191 by taking account of the recent changes to legislation, namely the repeal of the Justices of the Peace Act 1997, and refers to the relevant legislation in the Courts Act 2003, which provides that HM Inspectorate of Court Administration has a duty to inspect CAFCASS.

## **8. Impact**

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

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