

## **EXPLANATORY MEMORANDUM TO THE**

### **NATIONAL ASSEMBLY FOR WALES (CONDUCT OF LITIGATION AND EXERCISE OF RIGHTS OF AUDIENCE) REGULATIONS 2005**

**2005 No.607**

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1. These regulations are made under section 37(1) of the Children Act 2004 (“the Act”), consequential on functions conferred on the National Assembly for Wales and Welsh family proceedings officers by Part 4 of the Act.

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

- 3.1. None.

4. **Legislative Background**

- 4.1 The Children Act 2004 was given Royal Assent on 15<sup>th</sup> November 2004. Part 4 of that Act relates to advisory and support services for family proceedings and confers on the National Assembly for Wales functions previously discharged by the Children and Family Court Advisory and Support Service (“CAFCASS”) in relation to children ordinarily resident in Wales. These functions are, in respect of family proceedings in which the welfare of such children is or may be in question, to give advice in any court about any application, to make provision for the children to be represented and to provide information, advice and other support for the children and their families. In addition section 35 of the Act provides for the creation of “Welsh family proceedings officers”. They will perform, on behalf of the National Assembly for Wales, functions currently performed by officers of CAFCASS. These Regulations prescribe the types of officer who can be authorised by the National Assembly for Wales in accordance with section 37(1) of the Act. Section 37 allows the Assembly to authorise a Welsh family proceedings officer, in the exercise of his functions, to conduct litigation in relation to any proceedings in any court and to exercise rights of audience in any proceedings before any court.

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. These Regulations prescribe the types of officer who can be authorised by the National Assembly for Wales in accordance with section 37(1) of the Act.

**8. Impact**

8.1 There is no impact on the public sector from the regulations relating to Welsh family proceedings officers. These regulations provide for certain officers to be authorised by the National Assembly for Wales to conduct litigation in relation to any proceedings in any court and to exercise rights of audience in any proceedings before any court. Similar provision has already been made for CAFCASS to so authorise certain officers in the Children and Family Court Advisory and Support Service (Conduct of Litigation and Exercise of Rights of Audience) Regulations 2001 (S.I. 2001/698).

**9. Contact**

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