**POLICY NOTE**

**THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014 (PART 4 AND 5 COMPLAINTS) REVOCATION ORDER 2016**

**SSI 2016/XXX**

1. The above instrument has been made by the Scottish Ministers under powers conferred upon them by sections 30, 43 and 99(1)(a) of the Children and Young People (Scotland) Act 2014 ("the 2014 Act").

2. The instrument is subject to affirmative procedure.

## Background

3. The Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Order 2016 (S.S.I. 2016/152) makes provision for the making, consideration and determination of complaints concerning the exercise of functions conferred by or under Parts 4 and 5 of the 2014 Act.

4. Part 4 of the 2014 Act has been the subject of a judicial review, which was brought by the Christian Institute and others, and was appealed to the UK Supreme Court. The Supreme Court hearing took place on 8 and 9 March 2016, and the Court's judgment was handed down on 28 July 2016.

5. The Supreme Court found that the information sharing provisions of Part 4 of the 2014 Act are not within the legislative competence of the Scottish Parliament.

6. In order to complete the process required to remedy this issue, commencement of Parts 4 and 5 of the 2014 Act must be halted. This is being done by a package of 3 instruments, which are: this Order; the Children and Young People (Scotland) Act 2014 (Commencement No. 11) Partial Revocation Order 2016; and the Named Persons (Training, Qualifications, Experience and Position) and the Child's Plan (Scotland) Revocation Order 2016.

7. The Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Order 2016 makes provision in connection with the exercise of functions conferred by or under Parts 4 and 5 of the 2014 Act. Since commencement of Parts 4 and 5 of the 2014 Act is being halted, the provision made by that Order is not required.

8. This Order revokes the Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Order 2016.

9. The Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Order 2016 comes into force on 31st August 2016. This revocation Order can, however, only come into force once the affirmative Parliamentary procedure has been completed. There will, therefore, be a short period of time when the provision made by the Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Order 2016 will be in force until that Order can be revoked by this revocation Order. This will, however, have no practical effect because during that period, none of the functions to which the Children and Young

People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Order 2016 relates will be in force.

**Consultation**

10. No consultation has been carried out specific to this Order.

**Financial Effects**

11. There will be no additional financial implications/costs as a result of this Order.

Scottish Government
Directorate for Children and Families
August 2016