POLICY NOTE

THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (MODIFICATION OF PRIMARY LEGISLATION) ORDER 2013

SSI 2013/xxx

The above instrument is made in exercise of the powers conferred by section 204 of the Children's Hearings (Scotland) Act 2011 ("the 2011 Act"). This instrument is subject to affirmative procedure.

Policy objectives

Policy objectives of the 2011 Act

The 2011 Act repeals and replaces most of Chapter 3 of Part II of the Children (Scotland) Act 1995 ("the 1995 Act") and strengthens and modernises Scotland's Children's Hearings system. It introduces structural change and creates:-

- a national Children's Panel which will replace local authority children's panels which operated under the 1995 Act;
- the role of the National Convener who will lead the Children's Panel;
- Children's Hearings Scotland, the body set up to support the National Convener in the delivery of her functions, and;
- Area Support Teams which replace Children's Panel Advisory Committees.

The 2011 Act also promotes children's rights and streamlines Children's Hearings processes by introducing a number of procedural changes.

Policy objectives of this instrument

The purpose of this instrument is to make consequential amendments to various pieces of primary legislation which are related to, or have some form of cross-reference to, children's hearings. It also amends the 2011 Act itself, making ancillary provision to give full effect to the 2011 Act.

Paragraphs 1 to 19 of Schedule 1 contain amendments to primary legislation in consequence of the change from the 1995 Act to the 2011 Act. It updates relevant pieces of primary legislation with appropriate cross-references to the new 2011 Act provisions and terminology. For example, references in certain legislation to supervision requirements under the 1995 Act are replaced with references to the new compulsory supervision order (and interim compulsory supervision order where appropriate) which is created by the 2011 Act.

Paragraph 20 of Schedule 1 amends the 2011 Act itself and makes ancillary provision in order to give full effect to provisions contained in the 2011 Act. In summary, it makes amendments to 2011 Act provisions to clarify the interaction between, and operation of, various provisions and also corrects missing and incorrect cross references.

The substantive policy behind all of the provisions amended is not affected.

Schedule 2 repeals various provisions in primary legislation in consequence of the 2011 Act. For example, where now unnecessary definitions of terms such as "supervision requirement" require to be repealed as a result of the changes made by the 2011 Act.

Other relevant consequential amendments to legislation are made in the 2011 Act and the Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013, which was laid in draft in the UK Parliament on 11 March 2013.

Commencement

The Order is scheduled to come into force on 24 June 2013, the same day as section 7 (holding of children's hearings) of the 2011 Act.

Consultation

Given the technical nature of this instrument a formal consultation exercise was not undertaken. However, informal consultation did take place with key partners in the Children's Hearings system on those amendments of relevance to them.

Impact Assessments

It has not been considered necessary to prepare an equality impact assessment for this instrument as it has no effect on equality issues.

Financial Effects

The Minister for Children and Young People confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Children and Families Directorate
8 May 2013