Draft Order laid before the Scottish Parliament under section 197(2) and 200(3) of the Children's Hearings (Scotland) Act 2011, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Scotland) Act 2011 (Review of Contact Directions and Definition of Relevant Person) Order 2013

Made - - - -

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 126(2)(b) and 200(1)(g) of the Children's Hearings (Scotland) Act 2011(**a**) and all other powers enabling them to do so.

In accordance with sections 197(2) and 200(3) of that Act a draft of this Order has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Children's Hearings (Scotland) Act 2011 (Review of Contact Directions and Definition of Relevant Person) Order 2013 and comes into force on the same day as section 126 (review of contact direction) of the Children's Hearings (Scotland) Act 2011.

Review of contact directions

2.—(1) The condition set out in paragraph (2) is specified for the purposes of section 126(2)(b) of the Children's Hearings (Scotland) Act 2011 (review of contact direction).

(2) The condition is that the individual, who is not a relevant person in relation to the child, has or recently has had a significant involvement in the upbringing of the child.

(3) In this article "relevant person" includes a person who is to be treated as the child's relevant person by virtue of a decision under section 81(3), 160(4)(b) or 164 of the Children's Hearings (Scotland) Act 2011.

Meaning of "relevant person"

3.—(1) A person falling within paragraph (2) is specified for the purposes of section 200(1)(g) of the Children's Hearings (Scotland) Act 2011 (meaning of "relevant person").

(**a**) 2011 asp 1. The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). This Order is subject to the affirmative procedure by virtue of section 33(3) of that Act.

(2) A person falls within this paragraph if the person is—

(a) a parent of the child other than—

(i) a parent falling within paragraph (a) or (d) of section 200(1) of the Children's Hearings (Scotland) Act 2011;

(ii) a parent who had parental responsibilities and rights (or in England and Wales or Northern Ireland, parental responsibility) in relation to the child but, by virtue of an order of court, no longer has them;

(b) a person, having parental responsibilities for the child by virtue of article 12(2) of the Children (Northern Ireland) Order 1995(**a**).

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

(**a**) S.I. 1995/755 (N.I.2).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes changes to the gateways provided for in the Children's Hearings (Scotland) Act 2011 ("the 2011 Act") which allow an individual the right to participate in the children's hearings process.

Section 126 of the 2011 Act provides a review mechanism in cases where the children's hearing has made a contact direction as part of an order referred to in section 126(1)(a). Section 126(2)(b) provides that a review of the contact direction must take place if an individual makes a request claiming that conditions specified by the Scottish Ministers are met. Article 2 of this Order specifies the condition for the purposes of section 126(2)(b). As a result an individual who claims that they have or recently have had a significant involvement in the upbringing of the child may make the request for a review hearing under section 126.

Article 3 of the Order widens the definition of "relevant person" provided for at section 200 of the 2011 Act. All parents, except those who have had parental rights and responsibilities removed by virtue of an order of the court, will now fall within the definition of "relevant person". In addition non-parents who have acquired parental responsibilities in Northern Ireland will also fall within this definition.

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