MEMORANDUM

UK ADOPTION AND CHILDREN BILL

Background

1. The Adoption and Children Bill, which was introduced earlier this year but fell as a consequence of the general election, is due to be re-introduced to the UK Parliament soon. The Bill follows the Prime Minister's review of adoption south of the border and a subsequent White Paper last year. It introduces a number of measures aimed at reforming the adoption process in England and Wales. Before the Bill fell, a Scottish Parliamentary debate on adoption on 4 April (Scottish Parliament Official Report Number 11 of Volume 11) agreed to a Sewel motion covering the areas of the Bill relating to restrictions on bringing children into the UK for the purpose of adoption and on advertising children for adoption. This Sewel motion still stands.

Contents of the Bill

2. The Bill is concerned with reserved matters relating to adoption in England and Wales. The major proposals are placing the lifelong interests of the child at the heart of the adoption process; placing the National Adoption Register for England and Wales on a statutory footing; creating a new special guardianship status (a half-way position between fostering and adoption), the introduction of placement orders and for adoption purposes, tightening up restrictions on bringing children into the UK and advertising children.

Proposal

3. In addition to those areas covered by the existing Sewel motion, the Scottish Executive would like the Bill to apply to two further areas where legislation would normally be devolved.

Maintaining Cross Border Recognition of Adoption Procedures

4. The Adoption (Scotland) Act 1978 as amended by the Children (Scotland) Act 1995 provides for the mutual recognition of adoption procedures properly made according to legislation pertaining to England and Wales and Scotland respectively. The Bill presently recognises Scottish made orders. It makes sense for the Bill to be amended to continue recognition in Scotland of the new adoption procedures to be introduced in England and Wales through amendment to Scottish legislation.

Recognition of Overseas Adoptions

5. Certain overseas adoption orders (very broadly those from Commonwealth countries) are recognised in England and Wales and in Scotland. It is intended to review which country's adoption orders will be recognised when the Bill is enacted. New legislative provisions are needed to allow Scottish Ministers alongside UK Ministers to specify clear criteria that must be met for a country to be included on the revised list and to ensure that the status of those adopted from countries included on the previous list is not undermined by the introduction of a new order.

Public Consultation

6. The provisions in the Bill relating to changes in the domestic adoption process in England and Wales have been subject to public consultation but the detail of reform of recognition of overseas adoption orders is being introduced as part of the package of emergency reform of intercountry adoption However, we understand the Bill will be remitted to a special Committee that will take evidence from key stakeholders as part of its detailed consideration of the Clauses.

7. There is nothing to prevent the Committee from taking soundings from Scottish organisations or branches of national organisations to inform its views. If Parliament agrees to extension of the Bill to cover Scottish interests in relation to these matters, it is the intention of the Scottish Executive to recommend to UK Ministers that the Committee take such soundings.

Scottish Executive
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