

2012 No. 54

CHILDREN AND YOUNG PERSONS

The Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012

Made - - - - - *21st February 2012*

Laid before the Scottish Parliament *23rd February 2012*

Coming into force - - - *26th March 2012*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 32(2) of the Children’s Hearings (Scotland) Act 2011(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 and come into force on 26th March 2012.

Interpretation

2. In these Regulations—

“the Act” means the Children’s Hearings (Scotland) Act 2011; and

“the Safeguarders Panel” means the panel of persons established and maintained under section 32(1) of the Act.

Recruitment and selection of members of the Safeguarders Panel

3.—(1) The Scottish Ministers must make arrangements for the recruitment and selection of persons as members of the Safeguarders Panel.

(2) The Scottish Ministers must in particular, in such ways as they think fit, publicly advertise for persons to apply to become members of the Safeguarders Panel.

(3) The Scottish Ministers may in particular—

(a) invite nominations for persons as potential members of the Safeguarders Panel from such bodies or persons, other than CHS or SCRA, as they consider appropriate; or

(b) make nominations themselves for persons as potential members of the Safeguarders Panel.

Safeguarders under 2001 Regulations: recruitment to the Safeguarders Panel

4. The Scottish Ministers must inform all members of panels established under the Panels of Persons to Safeguard the Interests of Children (Scotland) Regulations 2001(a) of—

- (a) the establishment of the Safeguarders Panel; and
- (b) the arrangements for the recruitment and selection of persons as members of the Safeguarders Panel.

Appointment of members to, and disqualification from, the Safeguarders Panel

5.—(1) It is for the Scottish Ministers to appoint persons as members of the Safeguarders Panel from those recruited and selected under regulation 3.

(2) The Scottish Ministers may only appoint persons as members of the Safeguarders Panel who—

- (a) are capable of satisfying the key competencies; and
- (b) have experience,

which the Scottish Ministers consider appropriate for safeguarders.

(3) The Scottish Ministers may only appoint persons as members of the Safeguarders Panel who have successfully completed such pre-appointment training under regulation 8 as Ministers think fit.

(4) A person is disqualified from appointment as a member of the Safeguarders Panel or from continuing as a member of the Safeguarders Panel, if the person is or becomes—

- (a) a member of CHS;
- (b) employed by CHS;
- (c) a member of an area support team;
- (d) a member of SCRA;
- (e) employed by SCRA;
- (f) a member of the Children's Panel; or
- (g) directly involved in the establishment, maintenance, operation or management of the Safeguarders Panel.

Barred persons

6. The Scottish Ministers must, on being notified that a person is barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007(b)—

- (a) refuse to appoint that person as a member of the Safeguarders Panel; or
- (b) where already appointed, remove that person from the Safeguarders Panel.

Tenure of appointment and removal of members

7.—(1) The period for which a person is appointed as a member of the Safeguarders Panel is 3 years.

(2) The period for which a person is reappointed as a member of the Safeguarders Panel is to be determined by the Scottish Ministers but must be for a minimum of 1 year and a maximum of 3 years.

(a) S.S.I. 2001/476, as amended by regulation 4 of the Curators ad Litem and Reporting Officers (Panels) and the Panels of Persons to Safeguard the Interests of Children (Scotland) Amendment Regulations 2011 (S.S.I. 2011/320).
(b) 2007 asp 14.

(3) The Scottish Ministers must reappoint as a member of the Safeguarders Panel a person whose appointment has ceased unless—

- (a) the person declines to be reappointed; or
- (b) the Scottish Ministers are satisfied that paragraph (4) applies.

(4) This paragraph applies if the person is unfit to be a member of the Safeguarders Panel by reason of—

- (a) inability;
- (b) conduct; or
- (c) failure without reasonable excuse to comply with any training requirements imposed by the Scottish Ministers under regulation 8.

(5) The Scottish Ministers may remove a member from the Safeguarders Panel during the periods mentioned in paragraphs (1) and (2) if satisfied that paragraph (4) applies.

Training of members and potential members of the Safeguarders Panel

8.—(1) The Scottish Ministers must train, or make arrangements for the training of, members and potential members of the Safeguarders Panel.

(2) Such training may be—

- (a) pre-appointment training for those potential members of the Safeguarders Panel who might be appointed to it following successful completion of that training; or
- (b) continuing training for members of the Safeguarders Panel.

(3) Members of the Safeguarders Panel must attend and successfully complete continuing training requirements imposed by the Scottish Ministers.

Content of Training

9. The training of members and potential members of the Safeguarders Panel must include—

- (a) the role and functions of safeguarders;
- (b) the standards expected of safeguarders; and
- (c) how safeguarders may best elicit the views of a child.

Payment of fees, expenses and allowances to members and potential members of the Safeguarders Panel

10.—(1) The Scottish Ministers must pay fees to members of the Safeguarders Panel.

(2) The Scottish Ministers may pay expenses and allowances, as they think fit, to members and potential members of the Safeguarders Panel.

(3) The Scottish Ministers must publish the rates of fees, expenses and allowances payable to members and potential members of the Safeguarders Panel.

Operation and management of the Safeguarders Panel

11.—(1) The Scottish Ministers must keep under review the operation and management of the Safeguarders Panel.

(2) In particular the Scottish Ministers must ensure that at all times the membership of the Safeguarders Panel is adequate for the purposes for which it is established.

(3) The Scottish Ministers must endeavour to ensure that the Safeguarders Panel includes persons from all local authority areas.

(4) The Scottish Ministers must monitor the performance of members of the Safeguarders Panel.

- (5) Monitoring the performance of members of the Safeguarders Panel may include—
- (a) assessing any report prepared by a safeguarder;
 - (b) recording the attendance of a safeguarder at children’s hearings or court proceedings under Part 10 or 15 of the Act;
 - (c) observing a safeguarder carrying out their functions, including at children’s hearings or court proceedings under Part 10 or 15 of the Act; and
 - (d) seeking the views of—
 - (i) a child in relation to whom a safeguarder was appointed;
 - (ii) a relevant person in relation to that child;
 - (iii) members of the Children’s Panel; and
 - (iv) the Principal Reporter.
- (6) The Scottish Ministers must establish and publish procedures for complaints against—
- (a) the operation and management of the Safeguarders Panel; and
 - (b) members of the Safeguarders Panel in the performance of their functions.

AILEEN CAMPBELL

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
21st February 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the establishment and maintenance of the Safeguarders Panel under section 32(2) of the Children's Hearings (Scotland) Act 2011.

Regulation 3 places duties on the Scottish Ministers to make arrangements for the recruitment and selection of members of the Safeguarders Panel. Under regulation 4, members of the existing panels (in terms of the Panels of Persons to Safeguard the Interests of Children (Scotland) Regulations 2001) must be informed of those arrangements.

Regulation 5 sets out the criteria for appointment to membership of the Safeguarders Panel in terms of competence, experience and the completion of training requirements; it also specifies certain persons who are disqualified from membership. Regulation 6 provides that persons barred from regulated work with children cannot be members of the Safeguarders Panel. Regulation 7 makes provision concerning: the tenure of appointment to the Safeguarders Panel; reappointment; and removal from the Panel.

Under regulation 8 members and potential members of the Safeguarders Panel must be provided with training, and such training must be successfully completed. Regulation 9 specifies particular matters that training must be provided on.

Regulation 10 provides that: members of the Safeguarders Panels must be paid fees for their work as safeguarders; and members and potential members may be paid expenses and allowances.

Regulation 11 makes provision about reviewing the operation and management of the Safeguarders Panel. The Scottish Ministers must: ensure adequate membership of the Panel; try to have members from all council areas; monitor the performance of members; and establish a complaints procedure.

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