
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 368

The Children's Legal Assistance (Miscellaneous Amendments and Consequential Provisions) (Scotland) Regulations 2021

Amendment of the Children's Legal Assistance (Scotland) Regulations 2013

7.—(1) The Children's Legal Assistance (Scotland) Regulations 2013⁽¹⁾ are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the 2011 Act” insert—

““the 2019 Act” means the Age of Criminal Responsibility (Scotland) Act 2019,”

(b) for the definition of “child” substitute—

““child”—

(a) in relation to proceedings under the 2011 Act has the meaning given in section 199 of that Act,

(b) in relation to proceedings under the 2019 Act has the meaning given in section 80 of that Act,”

(c) after the definition of “children's hearing”, insert—

““interested person”, in relation to proceedings relating to an application for an order under section 34 (application for order authorising search in relation to child under 12), 42 (application for child interview order) or 61 (application for order authorising taking of prints and samples from child) of the 2019 Act means any other person the sheriff considers to have an interest in the application,

“parent”, in respect of proceedings under Part 4 of the 2019 Act has the meaning given in section 76 of that Act.”

(3) In regulation 5 (children's legal aid: individual), for paragraph (1) substitute—

“(1) Children's legal aid is available to—

(a) an individual to whom section 126 of the 2011 Act refers in respect of any proceedings before a sheriff, sheriff principal or in the Sheriff Appeal Court or the Court of Session in connection with a hearing under that section, where the conditions in paragraph (2) are met,

(b) an individual who is a parent or interested person in respect of proceedings under Part 4 of the 2019 Act, where the conditions in paragraph (2)(c) are met.”

(4) In regulation 6 (distinct proceedings)—

(a) in paragraph (1) after “regulation” insert “, except where otherwise specified,”

(b) after paragraph (3) insert—

“(4) For the purposes of children's legal aid each of the following (or one or more parts of them) is to be treated as a single set of proceedings—

- (a) proceedings relating to an application under section 34 of the 2019 Act for an order authorising a search in relation to a child under 12 years of age, an application to appeal to the Sheriff Appeal Court against a decision taken by a sheriff under section 36 of the 2019 Act in respect of that application, and where permission is given the proceedings relating to such an appeal,
 - (b) proceedings relating to an application under section 42 of the 2019 Act for a child interview order, an application to appeal to the Sheriff Appeal Court against a decision taken by a sheriff under section 44 of the 2019 Act in respect of that application, and where permission is given the proceedings relating to such an appeal,
 - (c) proceedings relating to an application under section 61 of the 2019 Act for an order authorising the taking of prints and samples from a child, an application to appeal to the Sheriff Appeal Court against a decision taken by a sheriff under section 63 of the 2019 Act in respect of that application, and where permission is given the proceedings relating to such an appeal.”
- (5) In regulation 18 (matters of special urgency),
- (a) for paragraph (1) substitute—

“(1) The Board may make children’s legal aid available for specially urgent work undertaken before an application for children’s legal aid is determined, if it appears to the Board that it is reasonable in the particular circumstances of the case that the applicant should receive children’s legal aid, in either of the following circumstances—

 - (a) where the application is made by a parent or interested person in relation to proceedings under Part 4 of the 2019 Act and any of the steps specified in paragraph (1A) has required to be taken as a matter of special urgency to protect the applicant’s position, or
 - (b) in any other circumstances the Board is satisfied on application that participation in proceedings is required as a matter of special urgency to protect the applicant’s position.”,
 - (b) after paragraph (1) insert—

“(1A) The steps referred to in paragraph (1)(a) are—

 - (a) such steps as may be appropriate to intimate an intention to make representations in respect of an application for an order,
 - (b) such steps as may be appropriate to make representations in respect of an application for an order,
 - (c) moving to prorogate the time for compliance with any order or rule in relation to the proceedings,
 - (d) moving for permission to appeal a decision,
 - (e) such steps as may be appropriate to initiate an appeal of a decision in relation to an order, and
 - (f) conducting an appeal of a decision in relation to an order.”, and
 - (c) in paragraphs (2) and (3) in all the places where “paragraph (1)” appears substitute “paragraph (1)(b)”.