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STATUTORY INSTRUMENTS

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**1996 No. 3258 (S.248)**

**CHILDREN AND YOUNG PERSONS**

The Emergency Child Protection  
Measures (Scotland) Regulations 1996

<i>Made</i>	- - - -	<i>18th December 1996</i>
<i>Laid before Parliament</i>		<i>31st December 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 62 of the Children (Scotland) Act 1995(1), and of all other powers enabling him in that behalf, hereby makes the following regulations:

**Citation and commencement**

1. These Regulations may be cited as the Emergency Child Protection Measures (Scotland) Regulations 1996 and shall come into force on 1st April 1997.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—
- “the Act” means the Children (Scotland) Act 1995;
  - “applicant” means the person or the local authority who applied to a justice of the peace for an authorisation under subsection (1) or, as the case may be, subsection (2), of section 61 of the Act;
  - “place of safety” has the meaning given to that term in section 93(1) of the Act;
  - “Principal Reporter” has the meaning given to that term in section 93(1) of the Act; and
  - “relevant person” in relation to a child has the meaning given to that term in section 93(2) (b) of the Act.

**Duties of constable where child removed to place of safety**

3. As soon as reasonably practicable after a child has been removed by a constable to a place of safety under section 61(5) of the Act, a constable shall, subject to regulation 5 below, take such steps

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(1) 1995 c. 36.

as are reasonably practicable to inform the following persons of the matters specified in regulation 4 below:–

- (a) any relevant person in relation to the child;
- (b) any person, other than a relevant person, with whom the child was residing immediately before being removed to the place of safety;
- (c) the local authority for the area in which the place of safety to which the child was removed is situated;
- (d) where not falling within paragraph (c) above, the local authority for the area in which the child is ordinarily resident;
- (e) the local authority for the area in which the child was residing immediately before being removed to a place of safety (where they are not the authority under (c) or (d) of this regulation); and
- (f) the Principal Reporter.

4. The following matters are specified as matters on which the persons mentioned in regulation 3 above are to be informed:–

- (a) the removal of the child by a constable to a place of safety;
- (b) the place of safety at which the child is being, or is to be, kept;
- (c) the reasons for the removal of the child to a place of safety; and
- (d) any other steps which a constable has taken or is taking to safeguard the welfare of the child while in a place of safety.

5. Where a constable is informing the persons mentioned in paragraphs (a) and (b) of regulation 3 above, he may, where he considers it necessary to do so in order to safeguard the welfare of the child, withhold from those persons any of the information specified in regulation 4(b) and (d) above.

6. Where a child has been removed to a place of safety by a constable under section 61(5) of the Act, a constable keeping him in a place of safety shall, subject to subsections (6) to (8) of that section, continue to so keep him only so long as he has reasonable cause to believe that–

- (a) the conditions for the making of a child protection order laid down in section 57(1) of the Act are satisfied; and
- (b) it is necessary to keep the child in a place of safety in order to protect him from significant harm (or further such harm).

#### **Duties where authorisation granted by justice of the peace to protect child**

7. Where an authorisation is granted by a justice of the peace under subsection (1) or (2) of section 61 of the Act, the applicant shall implement the authorisation as soon as reasonably practicable.

8. Where an authorisation has been granted under section 61 of the Act, as soon as reasonably practicable after steps have been taken to prevent any person from removing the child from a place where he is then being accommodated, or the child has been removed to a place of safety, the applicant shall, subject to regulation 10 below, take such steps as are reasonably practicable to inform the following persons of the matters specified in regulation 9 below–

- (a) any relevant person in relation to the child;
- (b) any person, other than a relevant person, with whom the child was residing immediately before the grant of the authorisation;
- (c) where not the applicant, the local authority for the area in which the place of safety to which the child was or is to be removed is situated;

- (d) where not falling within paragraph (c) above and where not the applicant, the local authority for the area in which the child is ordinarily resident;
- (e) where not the applicant, the local authority for the area in which the child was residing immediately before the grant of the authorisation (where they are not the authority under (c) or (d) of this regulation); and
- (f) the Principal Reporter.

9. The following matters are specified as matters on which the persons mentioned in regulation 8 above are to be informed:—

- (a) the grant of the authorisation and the steps taken to implement it;
- (b) the place of safety at which the child is being or is to be kept or, as the case may be, the place at which the child is being accommodated;
- (c) the reasons for the grant of the authorisation; and
- (d) any other steps which the applicant has taken or is taking to safeguard the welfare of the child while in a place of safety.

10. Where an applicant is informing the persons specified in paragraphs (a) and (b) of regulation 8 above, he may, where he considers it necessary to do so in order to safeguard the welfare of the child, withhold from any of those persons any of the information specified in regulation 9(b) and (d) above.

#### **Notice where authorisation ceases to have effect**

11. Where an authorisation granted under subsection (1) or (2) of section 61 of the Act ceases to have effect by virtue of section 61(4)(a) of the Act (authorisation ceasing to have effect where not implemented within 12 hours of being made), the applicant shall immediately notify the justice of the peace who granted the authorisation and as soon as reasonably practicable give notice of this to the persons specified in regulation 8 above.

#### **Duties where child subject to emergency protection measures**

12. In regulations 13 to 16 below—

“emergency protection measures” in relation to a child means—

- (a) further to the grant of an authorisation by a justice of the peace under subsection (1) or (2) of section 61 of the Act, the prevention of the removal of the child by any person from a place where he is then being accommodated or, as the case may be, the removal of the child to a place of safety and keeping him there until the expiry of the authorisation; and
- (b) the removal of a child to a place of safety by a constable under section 61(5) of the Act, and keeping him there;

“specified person” means—

- (a) where an authorisation has been granted by a justice of the peace under subsection (1) or (2) of section 61 of the Act, the applicant for such authorisation; and
- (b) where a child has been removed to a place of safety by a constable under section 61(5) of the Act, a constable keeping him in such a place.

13. As early as is consistent with the protection and welfare of the child, the specified person, taking or having taken emergency protection measures, shall taking account of the age and maturity of the child—

- (a) inform the child of the reasons for the emergency protection measures being taken or having been taken, and of any further steps which may be taken with respect to him under the Act or under these Regulations; and

- (b) so far as practicable, give the child an opportunity to express his views, and have regard to any views as may be expressed before continuing with emergency protection measures or taking any such further steps.

**14.** Where emergency protection measures have been taken in relation to a child, the specified person shall do what is reasonable in all the circumstances for the purpose of safeguarding the welfare of the child (having regard in particular to the length of the period during which the child will be subject to such measures).

**15.** Where further to emergency protection measures a child is taken to a police station as a place of safety, the specified person shall as soon as reasonably practicable take the child to another type of place of safety and keep the child in that other place.

**16.** Where a child is subject to emergency protection measures, the specified person in relation to—

- (a) any relevant person in relation to the child; and
- (b) any person with whom the child was living immediately before such measures were taken, shall allow, and
- (c) any other person, may allow;

such contact (if any) with the child as, in the view of the specified person, is both reasonable and in accordance with the welfare of the child.

St Andrew's House,  
Edinburgh  
18th December 1996

*James Douglas-Hamilton*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

*(This note is not part of the Regulation)*

These Regulations make provisions concerning the duties of any person removing a child to, or keeping him in, a place of safety.

The Regulations specify the persons who should be notified and the information about which they should or may be notified where a child has been removed to a place of safety by a constable or where a justice of the peace has granted an authorisation to protect a child. They also provide for a constable keeping a child in a place of safety only so long as he has reasonable cause to believe certain things are satisfied.

The Regulations also deal with the arrangements for giving notice where an authorisation ceases to have effect; for informing and taking account of the views of a child who is subject to emergency protection measures and certain other matters related to the child's welfare; and for allowing contact with a child who is subject to emergency protection measures.