

2001 No. 476

CHILDREN AND YOUNG PERSONS

**The Panels of Persons to Safeguard the Interests of Children
(Scotland) Regulations 2001**

Made 20th December 2001

Laid before the Scottish Parliament 21st December 2001

Coming into force 23rd January 2002

The Scottish Ministers, in exercise of the powers conferred by sections 101 and 103(3) of the Children (Scotland) Act 1995(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Panels of Persons to Safeguard the Interests of Children (Scotland) Regulations 2001 and shall come into force on 23rd January 2002.

Interpretation

2. In these Regulations unless the context otherwise requires—

“the chairman of the children’s panel” means the person appointed by the Scottish Ministers for each local authority area by virtue of paragraph 1 of Schedule 1 to the 1995 Act.

“1995 Act” means the Children (Scotland) Act 1995;

“panel” means a panel of persons established under regulations 3 or 11 below, as the case may be, for a local authority area;

“Sheriff Principal” means the Sheriff Principal or the Sheriffs Principal, as the case may be, within those jurisdiction the local authority area, or the relevant part of the local authority area, lies.

Establishment of panels for the purposes of section 41 of the 1995 Act

3.—(1) Subject to paragraph (2) below there shall be continued for each local government area a panel of persons from whom persons to safeguard the interests of children may be appointed for the purposes of section 41 of the 1995 Act.

(2) A local authority may, after consultation with the chairman of the children’s panel and the Sheriff Principal as to the desirability of their doing so, establish for their area more than one such panel.

Appointment to panel

4.—(1) Subject to paragraphs (2) and (3) and regulations 5, 6 and 7, each local authority shall from time to time, appoint such number of persons to be members of a panel, after consultation with the chairman of the children’s panel and the Sheriff Principal, they consider adequate.

(a) 1995 c.36. Section 101 was amended by the Regulation of Care (Scotland) Act 2001 asp 8, section 75. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

- (2) A person may be appointed as a member of more than one panel.
- (3) A local authority shall appoint persons as members of a panel in accordance with regulations 5, 6 and 7 below.
- (4) Before seeking nominations under regulation 5, a local authority may determine the experience and standard of any qualifications which should be possessed by persons who may be appointed to safeguard interests of children, and any such determination shall be made after consultation with the chairman of the children's panel and the Sheriff Principal.

Nominations

- 5.—(1) Before a local authority make any appointment they shall invite nominations for persons as potential members of a panel from—
 - (a) the chairman of the children's panel;
 - (b) the Sheriff Principal; and
 - (c) such other bodies or persons as the local authority may consider appropriate.
- (2) A local authority may take such steps, including public advertisement, as they consider appropriate, to secure the nomination of a sufficient number of persons as potential members of a panel, and may themselves make nominations.
- 6.—(1) Before appointing any person to a panel a local authority shall—
 - (a) satisfy themselves, either generally, or, having regard to any determination made under regulation 4(4), that the experience and standard of any qualifications possessed by each person whom they propose to appoint are appropriate; and
 - (b) consult the chairman of the children's panel, the Sheriff Principal and such other nominating bodies and persons as they consider necessary with respect to the suitability of each of the proposed appointees.
- (2) A local authority shall not appoint any person to a panel who is—
 - (a) a member of that local authority;
 - (b) a member of a children's panel appointed by the Scottish Ministers by virtue of paragraph 1 of Schedule 1 to the 1995 Act^(a); or
 - (c) a member of a Children's Panel Advisory Committee formed by a local authority by virtue of paragraph 3 of the Schedule 1 to the 1995 Act.

Term of appointment

- 7.—(1) Subject to paragraph (2), the appointment under regulation 4 of a person as a member of a panel shall be for such period not exceeding 3 years as the local authority in consultation with the chairman of the children's panel and the Sheriff Principal consider appropriate.
- (2) A person may be re-appointed as a member of a panel.
- (3) A person's membership of a panel shall be terminated by a local authority at any time where the local authority, with the agreement of the chairman of the children's panel and the Sheriff Principal, are satisfied that the panel member is unable, unfit or unsuitable to continue to carry out the functions of membership.

Review of panels

- 8. A local authority shall in consultation with the chairman of the children's panel and the Sheriff Principal keep under review the membership and operation of every panel established for their area under regulation 3 and shall ensure at all times a membership of the panel adequate for the purposes for which the panel is established.

Inform the Chairman of the Children's Panel, the Sheriff Principal etc.

- 9. A local authority shall inform the chairman of the children's panel, the Sheriff Principal and such other persons as the local authority consider necessary, of the names, addresses and

(a) The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

qualifications or experience of each member of a panel established under regulation 3 for the area of the local authority, and of any change with respect to that membership.

Expenses, fees and allowances

10.—(1) Subject to section 41(4) of the 1995 Act, the local authority shall defray the expenses incurred by a member of a panel established for their area under regulation 3, and shall pay to that member such fees and allowances as they think fit.

(2) The local authority shall defray the expenses incurred by a member of a panel established for their area under regulation 3 appointed under the terms of the Children's Hearing (Legal Representation)(Scotland) Rules 2001(a) and shall pay to the panel member such fees and allowances as the Scottish Ministers shall determine.

Revocations and transitional provisions

11.—(1) Subject to paragraph (2) the Social Work (Panels of Persons to Safeguard the Interests of Children) (Scotland) Regulations 1984(b) are revoked.

(2) The Social Work (Panels of Persons to Safeguard the Interests of Children) (Scotland) Regulations 1984 shall apply to any appointments of person appointed thereunder made prior to the coming into force of these Regulations.

St Andrew's House,
Edinburgh
20th December 2001

CATHY JAMIESON
A member of the Scottish Executive

(a) S.S.I. 2001/478.
(b) S.I. 1984/1442.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the continuation in each local government area of a panel or panels or persons to safeguard the interests of children in proceedings before a children's hearing or before the Sheriff for the purposes of the Children (Scotland) Act 1995 ("the 1995 Act"), (regulation 3).

Regulations 3 to 10 make provision for panels established. Regulation 3(2) provides that the local authority, after consultation with the chairman of the children's panel and the Sheriff Principal may establish more than one panel in their area while regulation 4 requires that the local authority consult the chairman of the children's panel and Sheriff Principal on the size of panels which should be appointed.

Regulation 4 empowers the local authority to consult with the chairman of the children's panel and the Sheriff Principal as to the experience which should be possessed by persons nominated to serve on any panel for the purposes of the 1995 Act.

Regulations 5 and 6 set out the procedure to be followed by the local authority in seeking nominations and making appointments to panels to be established in their area, subject to regulation 6(2) which disqualifies certain persons from being appointed.

Regulation 7 makes provisions for the term of appointment, re-appointment, and termination of appointment, in certain circumstances, of panel members.

Regulation 8 requires the local authority in consultation with the chairman of the children's panel and the Sheriff Principal to keep under review the membership and operation of every panel established for their area.

Regulation 9 requires the local authority to maintain records of those persons appointed to such panels and to inform the chairman of the children's panel, the Sheriff Principal and such other persons as they consider necessary about panel membership and any changes in membership of panels.

Regulation 10 requires the local authority to defray the expenses of panel members and to pay panel members such fees and allowances as they think fit or as are determined by the Scottish Ministers.

Regulation 11 revokes the Social Work (Panels of Persons to Safeguard the Interests of Children) Regulations 1984 and makes provision to allow those Regulations to apply to any appointments made prior to the coming into force of these Regulations.

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