

2001 No. 477

CHILDREN AND YOUNG PERSONS

**The Curators ad Litem and Reporting Officers (Panels)
(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 Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulation 2001 and shall come into force on 23rd January 2002.

Interpretation

2. In these Regulations—

“adoption agency” means a local authority or an approved adoption society within the meaning of the 1978 Act;

“court” means an authorised court as defined in section 56 of the 1978 Act;

“the 1978 Act” means the Adoption (Scotland) Act 1978(b);

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

“panel” means a panel of persons established under regulation 3 below for a local authority area;

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

Establishment of panels

3.—(1) Subject to paragraph (2) there shall be continued for each local authority area a panel of persons from whom curators ad litem and reporting officers may be appointed for the purposes of section 87(4) of the 1995 Act and section 58 of the Adoption (Scotland) Act 1978(c).

(2) A local authority may, after consultation with the Sheriff Principal as to the desirability of their doing so, establish for their area more than one such panel, and may establish separate panels for the appointment of curators ad litem and reporting officers.

(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).

(b) 1978 c.28.

(c) 1978 c.28. Section 58 was amended by the Children (Scotland) Act 1995 Schedule 2 paragraph 26.

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 as, after consultation with the Sheriff Principal, they consider adequate.

(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 standard of qualifications or experience which should be attained by persons who may be appointed curators ad litem or reporting officers for the purposes of section 58 of the 1978 Act or the 1995 Act, and any such determination shall be made after consultation with the Sheriff Principal.

Nominations

5.—(1) Before a local authority makes any appointment they shall invite nominations for persons as potential members of a panel from—

- (a) the Sheriff Principal;
- (b) other local authorities; and
- (c) such other 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) A local authority shall appoint to a panel any person nominated by the Sheriff Principal provided that person's qualifications or experience are not inconsistent with any standard which may have been determined in accordance with regulation 4(4) above.

(2) Before appointing any other person to a panel a local authority shall—

- (a) satisfy themselves, either generally, or having regard to any standard determined under regulation 4(4), that the qualifications or experience of each person whom they propose to appoint are appropriate to his appointment as curator ad litem or, as the case may be, reporting officer for the purposes of section 58 of the 1978 Act or the 1995 Act; and
- (b) consult the Sheriff Principal and such other nominating authorities and persons as they consider necessary with respect to the suitability of each of the proposed appointments.

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 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—

- (a) the local authority are satisfied that the person is unable, unfit or unsuitable to continue to carry out the functions of his membership; or
- (b) any court to which the person has been appointed as curator ad litem or reporting officer under the 1995 Act or section 58 of the 1978 Act so reports to the local authority.

Review of panels

8. A local authority shall in consultation with the Sheriff Principal keep under review the membership and operation of every panel for their area and shall ensure at all times a membership of the panel adequate for its purposes.

Inform Sheriff Principal etc

9. A local authority shall inform the Sheriff Principal and such other persons as the local authority consider necessary, of the names, addresses, qualifications and experience of each member of a panel for the area of the local authority, and of any change with respect to that membership.

Expenses, fees and allowances

10.—(1) In the case of—

- (a) an application under section 18 or section 20 of the 1978 Act; or
- (b) an application for an adoption order or order under section 49 of the 1978 Act where the child was placed with an applicant by an adoption agency; or
- (c) an application for an adoption order or order under section 49 of the 1978 Act which is made by a court,

a local authority shall defray the expenses incurred by a member of a panel established for their area and shall pay to that member such fees and allowances as they think fit.

(2) In the case of an appointment made under the 1995 Act or the Children's Hearings (Legal Representation) (Scotland) Rules 2001(a) a local authority shall defray the expenses incurred by a member of a panel established for their area and shall pay to the panel member such fees and allowances as the Scottish Ministers shall determine.

Revocations an transitional provisions

11.—(1) Subject to paragraph (2) the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 1984(b) and the Curators ad Litem and Reporting Officers (Panels) (Scotland) Amendment Regulations 1985(c) are revoked.

(2) The Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 1984 shall apply to any appointments of Curators ad Litem and Reporting Officers made prior to the coming into force of these Regulations.

CATHY JAMIESON
A member of the Scottish Executive

St Andrew's House,
Edinburgh
20th December 2001

(a) S.S.I. 2001/478.
(b) S.I. 1984/566 as amended by S.I. 1985/1556.
(c) S.I. 1985/1556.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the establishment in the area of each local authority of panels of persons to act as curators ad litem and reporting officers.

Regulation 3(2) provides that the local authority, after consultation with the Sheriff Principal may establish more than one panel in their area while regulation 4 requires that the local authority consult the Sheriff Principal on the size of panel which should be appointed so that this is adequate for the functions to be performed.

Regulation 4 also empowers the local authority to consult with the Sheriff Principal as to the standard of qualification or experience which should be attained by persons nominated to serve on any panel.

Regulation 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.

Regulation 7 makes provision for the term of appointment, reappointment, and termination of appointment, in certain circumstances, of panel members.

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

Regulation 9 requires the local authority to maintain records of those persons appointed to panels and to inform 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, in relation to certain specified applications to the Sheriff Principal, to defray the expenses of panel members and to pay panel members such fees and allowances as they think fit or as may be determined by the Scottish Ministers.

Regulation 11 revokes the Curators ad Litem and Reporting Officers Regulations 1985 (and Regulations) an amending set of and makes provision for the continuation of any appointment made under those Regulations.

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