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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 61**

**CHILDREN AND YOUNG PERSONS**

**The Children’s Hearings (Scotland) Act 2011  
(Safeguarders Panel) Amendment Regulations 2016**

<i>Made</i>	- - - -	<i>28th January 2016</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>1st February 2016</i>
<i>Coming into force</i>	- -	<i>25th April 2016</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 32(2) and 195(2) of the Children’s Hearings (Scotland) Act 2011<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2016 and come into force on 25th April 2016.

(2) In these Regulations, “the 2012 Regulations” means the Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012<sup>(2)</sup>.

**Amendment of the 2012 Regulations**

2. The 2012 Regulations are amended in accordance with regulations 3 to 7.

**Definition of the Practice Standards**

3. In regulation 2, after the definition of “the Act” insert—

““the Practice Standards” means the Practice Standards for Safeguarders published by the Scottish Government in July 2015<sup>(3)</sup>”.

**Tenure of appointment and removal of members**

4. For paragraphs (3) to (5) of regulation 7 substitute—

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(1) 2011 asp 1.

(2) S.S.I. 2012/54.

(3) The Practice Standards for Safeguarders are available at <http://www.gov.scot/Topics/People/Young-People/protecting/childrens-hearings>.

“(3) A person who is appointed as a member of the Safeguarders Panel may, at the end of their period of appointment or, as the case may be, reappointment, be reappointed as a member of the Safeguarders Panel only if the Scottish Ministers are satisfied that the person is fit to be a member of the Safeguarders Panel.

(4) The Scottish Ministers may remove a member from the Safeguarders Panel if at any point they consider that that person is not fit to be a member of the Safeguarders Panel.

(5) In assessing whether a person is fit to be a member of the Safeguarders Panel for the purpose of paragraph (3) or (4), the Scottish Ministers may in particular have regard to—

- (a) the person’s conduct;
- (b) whether the person has failed to comply with any requirement in that person’s letter of appointment or, as the case may be, reappointment; and
- (c) whether the person has been able and willing to operate in accordance with the Practice Standards.”.

### **Training of members and potential members of the Safeguarders Panel**

5. In paragraph (3) of regulation 8, for “requirements imposed by the Scottish Ministers”, substitute “for members of the Safeguarders Panel”.

### **Operation and management of the Safeguarders Panel**

6.—(1) Regulation 11 is amended as follows.

(2) After paragraph (5)(d)(iii) omit “and” and after paragraph (5)(d)(iv) insert—

- “(v) the relevant local authority for the child; and
- (vi) a sheriff.”.

(3) In paragraph (5) after sub-paragraph (d) insert—

“; and

- (e) assessing whether a safeguarder operates in accordance with the Practice Standards.”.

### **Sharing of Safeguarder reports**

7. After regulation 11 insert—

#### **“Sharing of safeguarder reports**

12.—(1) The Principal Reporter must provide to the Scottish Ministers any report of a type described in paragraph (2) held by the Principal Reporter which the Scottish Ministers request for the purpose of—

- (a) monitoring the performance of a member of the Safeguarders Panel;
- (b) investigating a complaint against a member of the Safeguarders Panel about the performance of that member’s functions; or
- (c) auditing a request for payment of fees, expenses and allowances submitted by a member of the Safeguarders Panel.

(2) The reports referred to in paragraph (1) are reports prepared by a safeguarder—

- (a) in accordance with the requirement in section 33(1)(a) or (c) of the Act; and
- (b) such other reports as a safeguarder may provide to a children’s hearing or sheriff whether at the request of the children’s hearing or sheriff, or otherwise.”.

### **Savings provision**

8.—(1) Where paragraph (2) applies, regulations 7 and 8 of the 2012 Regulations continue to have effect on and after 25th April 2016 as if the amendments made in regulations 4 and 5 had not been made, until—

- (a) where the person described in paragraph (2) is reappointed as a member of the Safeguarders Panel on or after 25th April 2016, the date on which that person’s period of reappointment commences; or
- (b) in the case of any other person described in paragraph (2), the date on which that person’s current period of appointment ends.

(2) This paragraph applies in the case of a person who held appointment as a member of the Safeguarders Panel immediately before 25th April 2016 and whose period of appointment ends on or before 31st December 2016.

(3) In this regulation, “Safeguarders Panel” means the panel of persons established and maintained under section 32(1) of the Children’s Hearings (Scotland) Act 2011.

St Andrew’s House,  
Edinburgh  
28th January 2016

*AILEEN CAMPBELL*  
Authorised to sign by the Scottish Ministers

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

These regulations amend The Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 (“the 2012 Regulations”).

Regulation 4 amends the provisions in the 2012 Regulations regarding reappointment to and removal from the Safeguarders Panel (“the Panel”). A member of the Panel may only be reappointed by Scottish Ministers if they are satisfied that the person is fit to be a member of the Panel. In making this decision, Scottish Ministers may have regard to the person’s conduct, whether the person has failed to comply with any requirement in their letter of appointment or reappointment and whether the person has been able and willing to operate in accordance with the Practice Standards for Safeguarders. Scottish Ministers are given the power to remove a member if, at any point, they consider that the person is not fit to be a member of the panel.

Regulation 5 provides that members of the Panel must attend and successfully complete continuing training.

Regulation 6 amends the existing procedures for monitoring the performance of safeguarders to provide that Scottish Ministers may consult with the local authority and a sheriff. In addition, it is provided that Scottish Ministers may assess whether a safeguarder operates in accordance with the Practice Standards for Safeguarders.

Regulation 7 amends the 2012 Regulations so as to provide that any report prepared by a safeguarder which is held by the Principal Reporter must, at the request of the Scottish Ministers, be provided to Scottish Ministers for the purpose of monitoring performance, investigating complaints and auditing requests for payment of fees, expenses and allowances.

Regulation 8 contains a savings provision about how these amendments are to apply to existing members of the Panel whose appointment is due to expire by the end of 2016.

The Practice Standards for Safeguarders are available at <http://www.gov.scot/Topics/People/Young-People/protecting/childrens-hearings>. Copies can be obtained from the Children’s Hearings Team, Care and Justice Division, Scottish Government, Area 2B (North) Victoria Quay, Leith, Edinburgh, EH6 6QQ.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.