

Draft Regulations laid before Parliament under section 122(6) and 197(2) of the Children's Hearings (Scotland) Act 2011 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

CHILDREN AND YOUNG PERSONS

**The Children's Hearings (Scotland) Act 2011
(Children's Advocacy Services) Regulations 2020**

Made - - - - 2020
Coming into force - - 21st November 2020

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 122(4) and 195(2) of the Children's Hearings (Scotland) Act 2011⁽¹⁾ and all other powers enabling them to do so.

In accordance with sections 122(6) and 197(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Children's Hearings (Scotland) Act 2011 (Children's Advocacy Services) Regulations 2020 and come into force on 21 November 2020.

(2) In these Regulations—

“the Act” means the Children's Hearings (Scotland) Act 2011,

“children's advocacy worker” means a person engaged, or who may potentially be engaged, by a service provider to provide children's advocacy services in relation to a particular child,

“children's hearing” includes a pre-hearing panel,

“service provider” means a person with whom the Scottish Ministers have entered into arrangements for the provision of children's advocacy services.

Arrangements for the provision of children's advocacy services

2. These Regulations apply where the Scottish Ministers have entered into arrangements with a service provider under section 122(5) of the Act.

Service standards

3.—(1) A children's advocacy worker must act in accordance with the children's advocacy service standards.

(2) In this regulation, "the children's advocacy service standards" means the National Practice Model for Advocacy within the Children's Hearings System published by the Scottish Government on 31 March 2020(2).

Training and qualification of child advocacy workers

4.—(1) A person is qualified to act as a child advocacy worker when they have successfully completed training and qualification in accordance with this provision.

(2) The Scottish Ministers must train, or make arrangements for the training and qualification of, child advocacy workers and persons who may potentially be child advocacy workers.

(3) Such training may be—

- (a) pre-appointment training and qualification for those persons who may potentially be child advocacy workers, following successful completion of that training, or
- (b) continuing training and qualification for child advocacy workers.

(4) Child advocacy workers must attend and successfully complete continuing training and qualification requirements.

Content of training

5. The training of child advocacy workers and potential child advocacy workers must in particular include training about—

- (a) legislation relevant to children's hearings,
- (b) the rights of a child at a children's hearing,
- (c) the role and functions of child advocacy workers,
- (d) the role and functions of other persons involved in a children's hearing, and
- (e) the possible outcomes of children's hearings.

Payment of fees, expenses and allowances to persons providing children's advocacy services

6. Where a service provider has entered into arrangements with the Scottish Ministers in accordance with section 122(5) of the Act, they shall be entitled to the payment of fees, expenses and allowances in accordance with those arrangements.

Savings provision

7.—(1) This regulation applies where—

- (a) before the date on which these Regulations come into force, a person has provided relevant services to a child, and
- (b) the children's hearing in respect of which those services have been provided has not concluded on the date on which these Regulations come into force.

(2) Where this regulation applies, the person may, with the consent of the Scottish Ministers, continue to provide relevant services to a child on or after the date these Regulations come into force until the date on which the children's hearing has concluded.

(3) The Scottish Ministers may give consent in accordance with paragraph (2) subject to such conditions as they consider appropriate.

(4) In this regulation—

“relevant services” means services of support and representation to a child for the purpose of assisting a child in relation to the child’s involvement in a children’s hearing.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the provision of children's advocacy services under section 122 of the Children's Hearings (Scotland) Act 2011 ("the Act").

Regulation 2 provides that these Regulations apply where the Scottish Ministers have entered into arrangements for the provision of children's advocacy services under section 122(5) of the Act.

Regulation 3 provides that child advocacy workers must comply with the National Practice Model for Advocacy within the Children's Hearings System published by the Scottish Government on 31 March 2020 and available at <https://www.gov.scot/publications/advocacy-childrens-hearings-system-national-practice-model-guidance/pages/5/>.

Regulation 4 provides that persons are only qualified to act as child advocacy workers when they have successfully completed training and qualification in accordance with that Regulation.

Regulation 5 specifies particular matters that the training must cover.

Regulation 6 makes provision for the payment of fees, expenses and allowances to those providing children's advocacy services in accordance with arrangements entered into with the Scottish Ministers under section 122(5) of the Act.

Regulation 7 contains a saving provision in respect of persons providing services of support and representation to a child, for the purpose of assisting a child in relation to their involvement in a children's hearing, which is ongoing when these Regulations come into force. The Scottish Ministers may consent to that person continuing to provide such services until the conclusion of those proceedings, subject to such conditions as the Scottish Ministers consider to be appropriate.