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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 233**

**CHILDREN AND YOUNG PERSONS**

**The Age of Criminal Responsibility (Scotland)  
Act 2019 (Register of Child Interview  
Rights Practitioners) Regulations 2021**

*Made* - - - - 9th June 2021  
*Laid before the Scottish  
Parliament* - - - - 11th June 2021  
*Coming into force* - - 30th September 2021

The Scottish Ministers make the following Regulations in exercise of the power conferred on them by section 56(3) of the Age of Criminal Responsibility (Scotland) Act 2019<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 Age of Criminal Responsibility (Scotland) Act 2019 (Register of Child Interview Rights Practitioners) Regulations 2021 and come into force on 30 September 2021.

(2) In these Regulations—

“the Act” means the Age of Criminal Responsibility (Scotland) Act 2019,

“the register” means the register of child interview rights practitioners established and maintained by the Scottish Ministers under section 56(1) of the Act.

**Recruitment and selection of child interview rights practitioners**

2.—(1) These Regulations apply for the purpose of establishing and maintaining the register.

(2) The Scottish Ministers may as they consider appropriate—

(a) invite applications from, or

(b) nominate,

potential child interview rights practitioners.

### **Inclusion in the register: requirements and period of registration**

- 3.—(1) The Scottish Ministers may include a person in the register for the relevant period who—
- (a) meets the requirement in section 56(2) of the Act, and
  - (b) satisfies the requirements as referred to in this regulation.
- (2) The Scottish Ministers may include or, as the case may be, continue to include a person in the register where satisfied that the person—
- (a) meets the key competencies, and
  - (b) has experience which the Scottish Ministers consider appropriate for child interview rights practitioners.
- (3) The Scottish Ministers may only include or, as the case may be, continue to include a person in the register where that person has successfully completed such pre-registration training and such continuous training under regulations 5 and 6 as the Scottish Ministers think fit.
- (4) A person may not be included or, as the case may be, continue to be included in the register if that person is or becomes barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007(2).
- (5) A person may not be included in the register or, as the case may be, continue to be included in the register, if that person is or becomes—
- (a) a member of Children’s Hearings Scotland,
  - (b) employed by Children’s Hearings Scotland,
  - (c) a member of an area support team,
  - (d) a member of the Scottish Children’s Reporter Administration,
  - (e) employed by the Scottish Children’s Reporter Administration, or
  - (f) a member of the Children’s Panel.
- (6) A person who is included in the register must comply with—
- (a) the Code of Practice, and
  - (b) any condition of registration as notified in writing to that person by the Scottish Ministers.
- (7) A person who is included in the register must, as soon as practicable, notify the Scottish Ministers in writing if they—
- (a) are no longer entitled to provide children’s legal assistance under section 28M of the Legal Aid (Scotland) Act 1986(3),
  - (b) are barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007, or
  - (c) become a person as described in paragraph (5).
- (8) In this regulation—
- (a) “area support team” has the meaning given by paragraph 12(1) of schedule 1 of the Children’s Hearings (Scotland) Act 2011(4),
  - (b) “the Children’s Panel” has the meaning given by section 4(1) of the Children’s Hearings (Scotland) Act 2011,

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(2) 2007 asp 14.

(3) 1986 c.47. Section 28M was inserted by section 191 of the Children’s Hearings (Scotland) Act 2011 (asp 1).

(4) 2011 asp 1. Paragraph 12 of schedule 1 was relevantly amended by section 88(2) of the Children and Young People (Scotland) Act 2014 (asp 8).

- (c) “the Code of Practice” means the child interview rights practitioners code of practice published by the Scottish Government on 4 June 2021(5),
- (d) “the key competencies” means those competencies as set out in paragraph 20 of the Code of Practice,
- (e) “the relevant period” means—
  - (i) the period of 3 years beginning with the date on which a person was first included on the register,
  - (ii) any subsequent period or periods of no less than 1 year and no more than 3 years, as determined by the Scottish Ministers.

### **Removal from the register**

4.—(1) The Scottish Ministers may remove a person from the register if at any point they consider that the person no longer meets, or is no longer able to meet, the requirements for inclusion in the register as mentioned in regulation 3.

(2) The Scottish Ministers must remove a person from the register following receipt of a notification as mentioned in regulation 3(7).

(3) If the Scottish Ministers decide to remove a person from the register in accordance with paragraph (1) or (2), they must give the person notice in writing of that decision.

### **Training of child interview rights practitioners**

5.—(1) The Scottish Ministers must train, or make arrangements for the training of, child interview rights practitioners.

(2) Such training may include—

- (a) pre-registration training for any person who may be included in the register following successful completion of that training, or
- (b) continuing training for any person included in the register.

(3) A person included in the register must attend, and successfully complete, continuing training for child interview rights practitioners.

### **Content of training of child interview rights practitioners**

6. The training for child interview rights practitioners must, in particular, include training about—

- (a) the role and functions of child interview rights practitioners,
- (b) the standards expected of child interview rights practitioners,
- (c) how child interview rights practitioners may best ascertain the views of a child,
- (d) the role and functions of other persons involved in an investigative interview.

### **Payment of fees, expenses and allowances to child interview rights practitioners and those who may be included in the register**

7.—(1) The Scottish Ministers must make arrangements for the payment of fees to child interview rights practitioners.

(2) The Scottish Ministers may make arrangements to pay expenses and allowances, as they think fit, to child interview rights practitioners and any other person who may be included in the register.

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(5) <https://www.gov.scot/publications/age-criminal-responsibility-scotland-act-2019-child-interview-rights-practitioners-code-practice/>

(3) The Scottish Ministers must publish the rate of fees, expenses and allowances payable in accordance with this regulation, including any revisions to those, in such form as they consider appropriate.

**Operation and management of the register**

8.—(1) The Scottish Ministers must keep under review the operation and management of the register.

(2) The Scottish Ministers must monitor the performance of child interview rights practitioners included in the register.

(3) Monitoring the performance of child interview rights practitioners included in the register may include—

- (a) so far as reasonably practicable, ascertaining the views of a child in relation to whom a child interview rights practitioner was appointed,
- (b) assessing whether a child interview rights practitioner is continuing to meet the requirements for registration as mentioned in regulation 3.

(4) The Scottish Ministers must establish and publish procedures for complaints in relation to—

- (a) the operation and management of the register,
- (b) persons included in the register in the performance of their functions.

St Andrew's House,  
Edinburgh  
9th June 2021

*SHIRLEY-ANNE SOMERVILLE*  
A member of the Scottish Government

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## EXPLANATORY NOTE

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

These Regulations make provision in connection with the establishment and maintenance of the register of child interview rights practitioners under section 56(3) of the Age of Criminal Responsibility (Scotland) Act 2019.

Regulation 2 provides that in establishing and maintaining the register, the Scottish Ministers may invite applications from, or nominate, potential child interview rights practitioners as they consider appropriate.

Regulation 3 sets out the requirements for inclusion in the register and specifies certain circumstances where a person may not be included or continue to be included in the register. Regulation 3 also places a duty, on persons who are included in the register, to notify the Scottish Ministers of certain circumstances and sets out what the period of registration may be.

Regulation 4 sets out when a person may or must be removed from the register by the Scottish Ministers. It also provides that when the Scottish Ministers make a decision to remove someone from the register, they must give that person written notice of that decision.

Regulations 5 and 6 relate to training for persons who are included or are to be included in the register. Regulation 5 places a duty on the Scottish Ministers to train persons, or make arrangements for that training, which may include pre-registration training for persons before they are included in the register, or continuing training for those already included in the register. Regulation 6 sets out particular things which such training must cover.

Regulation 7 is concerned with the payment of fees, expenses and allowances to those included in the register or those who might be so included. It places a duty on the Scottish Ministers to make arrangements for the payment of fees to those included in the register. It further provides that the Scottish Ministers may also make arrangements for the payment of expenses and allowances to both those included in the register and those who may be so included. Regulation 7 also places a duty on the Scottish Ministers to publish the rate of fees, expenses and allowances which are paid in accordance with that regulation.

Regulation 8 makes provision about the operation and management of the register. It places a duty on the Scottish Ministers to keep the operation and management of the register under review and to monitor the performance of those included in the register. It also places a duty on the Scottish Ministers to establish and publish complaints procedures, both in relation to the operation and management of the register itself and in relation to how persons included in the regulations perform their functions.