
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 449 (C. 32)

CHILDREN AND YOUNG PERSONS

**The Age of Criminal Responsibility (Scotland) Act
2019 (Commencement No. 4) Regulations 2021**

| | | |
|--|---------|---------------------------|
| <i>Made</i> | - - - - | <i>1st December 2021</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>3rd December 2021</i> |
| <i>Coming into force</i> | - - | <i>17th December 2021</i> |

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 84(2) of the Age of Criminal Responsibility (Scotland) Act 2019⁽¹⁾.

Citation and commencement

1. These Regulations may be cited as the Age of Criminal Responsibility (Scotland) Act 2019 (Commencement No. 4) Regulations 2021 and come into force on 17 December 2021.

Appointed day

2. The day appointed for the coming into force of all the provisions of the Age of Criminal Responsibility (Scotland) Act 2019, so far as not already in force, is 17 December 2021.

St Andrew's House,
Edinburgh
1st December 2021

CLARE HAUGHEY
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Status: This is the original version (as it was originally made).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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the following provisions of the Age of Criminal Responsibility (Scotland) Act 2019 (“the Act”) on 17 December 2021:

Sections 1 and 2 – raising the age of criminal responsibility from 8 years to 12 years.

Section 28 – permitting a police constable to take a child aged under 12 years, who is behaving (or likely to behave) in a way that is causing or risks causing significant harm to another person, to a place of safety.

Section 33(1) to (3) – providing that certain statutory search powers that depend on a child being suspected of an offence still apply in relation to the suspected behaviour of a child under 12 years.

Sections 34 to 38 – permitting a constable to apply to a sheriff for an order authorising a search in relation to a child under 12 years.

Sections 39 to 46 – providing that a police constable does not have power to question a child under 12 years otherwise than in accordance with the Act.

Sections 47 to 55 – providing for rules about investigative interviews of children under 12 years (either by agreement or as authorised by a child interview order) and for questioning of a child under 12 years in urgent cases.

Section 56(1), (2) and (5) – providing for a register of child interview rights practitioners.

Sections 58 to 71 – providing for rules about the taking and destruction of physical data and samples from children under 12 years and from children 12 years and over in relation to conduct which occurred when they were under 12 years.

Section 72 – requiring that a person or a court, when exercising relevant powers under part 4 of the Act, must treat the need to safeguard and promote the wellbeing of the child as a primary consideration.

Sections 74 to 76 – authorising a constable to use reasonable force when exercising relevant powers under Part 4 of the Act. Section 75 creates an offence of obstruction of a constable exercising such powers.

Section 77 – amending section 91 of the Children’s Hearings (Scotland) Act 2011 to require a children’s hearing to consider the need for further reports, in deciding whether to defer a decision to a subsequent hearing.

Sections 78 and 79 – requiring Scottish Ministers to carry out a review of the operation of the Act within 3 years of when section 1 comes into force, and with a view to considering the future age of criminal responsibility, subject to consultation with appropriate persons.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The Age of Criminal Responsibility (Scotland) Act 2019 (“the Act”) received Royal Assent on 11 June 2019. Sections 84 and 85 of the Act came into force on the following day. The provisions of the Act commenced by earlier commencement regulations are detailed in the table below.

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.S.I. No.</i> |
|---------------------------------|-----------------------------|--------------------------|
| Section 3 | 29 November 2019 | 2019/349 |
| Sections 4 to 21 | 30 November 2020 | 2020/369 |
| Sections 22 to 24 | 31 March 2020 | 2020/74 |
| Sections 25 and 26 | 30 November 2020 | 2020/369 |
| Section 27 | 29 November 2019 | 2019/349 |
| Sections 29 to 32 and 33(4) | 31 March 2020 | 2020/74 |
| Section 56(3) and (4) and 57 | 31 March 2020 | 2020/74 |
| Section 60(6) | 31 March 2020 | 2020/74 |
| Section 65(2)(b)(iii) and 65(3) | 31 March 2020 | 2020/74 |
| Section 66(9) | 31 March 2020 | 2020/74 |
| Section 73 | 31 March 2020 | 2020/74 |
| Sections 80 to 83 | 31 March 2020 | 2020/74 |