

2023 No. 18

CRIMINAL LAW

The Human Trafficking and Exploitation (Independent Child Trafficking Guardians) (Scotland) Regulations 2023

Made - - - - 24th January 2023

Laid before the Scottish Parliament 26th January 2023

Coming into force - - 1st April 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 11(7) of the Human Trafficking and Exploitation (Scotland) Act 2015(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Human Trafficking and Exploitation (Independent Child Trafficking Guardians) (Scotland) Regulations 2023 and come into force on 1 April 2023.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Human Trafficking and Exploitation (Scotland) Act 2015,

“service provider” means a person with whom the Scottish Ministers have made arrangements for the appointment of independent child trafficking guardians,

“the register” means the register of independent child trafficking guardians established and maintained by the service provider under regulation 3.

(2) Any reference in these Regulations to anything done in writing includes a reference to anything done in electronic form which is—

- (a) sent by electronic means, and
- (b) capable of being reproduced in legible form.

Register of independent child trafficking guardians

3.—(1) These Regulations apply where the Scottish Ministers have made arrangements with a service provider under section 11(1) of the Act.

(2) The service provider must establish a register of independent child trafficking guardians.

(3) A person who is included in the register must comply with any condition of registration as notified in writing to that person by the service provider.

(a) 2015 asp 12.

- (4) A person who is included in the register—
- (a) must be registered or become registered as fit to provide immigration advice and immigration services by the Office of the Immigration Services Commissioner in terms of sections 84, 85 and schedule 6 the Immigration and Asylum Act 1999(a), and
 - (b) must not be barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007(b).
- (5) The service provider may remove a person from the register if at any point it considers that the person no longer meets, or is no longer able to meet, the requirements for inclusion in the register as mentioned in this regulation and regulation 4.
- (6) The service provider must keep under review the operation and management of the register.

Training and qualifications

4.—(1) A person is qualified to act as an independent child trafficking guardian when they have successfully completed training and qualification in accordance with this regulation and have been included in the register in accordance with regulation 3.

(2) The service provider must train, or make arrangements for the qualification and training of, independent child trafficking guardians and persons who may potentially be independent child trafficking guardians.

(3) Such training may comprise—

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

(4) An independent child trafficking guardian must attend and successfully complete continuing training and qualification requirements.

Continuing or ceasing to act as a child trafficking guardian

5. An independent child trafficking guardian appointed to assist, support and represent a child may, with the consent of that person, continue so to act until that person reaches the age of 26 years.

CLARE HAUGHEY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
24th January 2023

(a) 1999 c. 33; sections 84 and 85 relevantly amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), section 37(1) and schedule 4, paragraph 1; the Legal Services Act 2007 (c. 29), schedule 18(2), paragraphs 12(2)(a), (b), and 12(3); and the Immigration Act 2014 (c. 22), schedule 7, paragraphs 2(1), 2(2)(a), 2(2)(b), and 5(1); schedule 6 relevantly amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), schedule 4, paragraph 1.

(b) 2007 asp 14; relevantly amended by S.S.I. 2010/240, S.S.I. 2010/446 and the Disclosure (Scotland) Act 2020 asp 13 (date to be appointed).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the provision of independent child trafficking guardians under section 11(7) of the Human Trafficking and Exploitation (Scotland) Act 2015.

Regulation 3 provides for the establishment of a register of independent child trafficking guardians and regulation 4 makes provision for the training and qualifications of independent child trafficking guardians.

Regulation 5 provides a power for an independent child trafficking guardian to continue to support, represent and assist a person after they are no longer a child, until they reach the age of 26 years.

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