SCOTTISH STATUTORY INSTRUMENTS

2001 No. 478

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Legal Representation) (Scotland) Rules 2001

Made - - - -	*20th December 2001*
Laid before the Scottish Parliament - - - -	*21st December 2001*
Coming into force - -	*23rd February 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 42(1) and (2)(j) and 64(3) of the Children (Scotland) Act 1995(**1**), and of all other powers enabling them in that behalf, hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Children's Hearings (Legal Representation) (Scotland) Rules 2001 and shall come into force on 23rd February 2002.

Interpretation

2. In these Rules–

"the Act" means the Children (Scotland) Act 1995;

"legal representative" means a person appointed under these Rules to act as the legal representative of a child who is the subject of a Children's Hearing;

"local authority" means the local authority for the area of the Children's Hearing; and

"the Principal Reporter" means the Principal Reporter appointed under section 127 of the Local Government etc. (Scotland) Act 1994(**2**) or any officer of the Scottish Children's Reporter Administration to whom there is delegated under section 131(1) of that Act any functions of the Principal Reporter.

(**1**) 1995 c. 36. The functions of the Secretary of State transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**2**) 1994 c. 39.

Legal representation for the purpose of assisting children at a Children's Hearing

3.—(1) A business meeting arranged by the Principal Reporter under section 64(1) of the Act may appoint to any child who is due to appear before the Children's Hearing a legal representative if it appears to that business meeting, notwithstanding that an appointment may be made under section 41(1) of the Act, that–

(a) legal representation is required to allow the child to effectively participate at the Hearing; or

(b) it may be necessary to make a supervision requirement (or a review of such requirement) which includes a requirement for the child to reside in a named residential establishment and the child is likely to meet the criteria specified in section 70(10) of the Act and the Secure Accommodation (Scotland) Regulations 1996(**3**).

(2) The Children's Hearing may at any time appoint to any child a legal representative if it appears to that Hearing that either of the circumstances in paragraph (1)(a) or (b) above apply notwithstanding that:

(a) a business meeting or a previous Children's Hearing has considered the appointment of a legal representative for the child who is the subject of the Hearing; or

(b) an appointment has been or may be made under section 41(1) of the Act.

(3) When any appointment of a legal representative is made, the business meeting or the Children's Hearing shall direct the Principal Reporter to advise the local authority of that appointment.

Notification of Children's Hearings and provision of documents to legal representative

4.—(1) The Principal Reporter shall make any document, information or copies of any document provided to the Chairman and members of the Children's Hearing available to the legal representative.

(2) Subject to the Children's Hearings (Scotland) Rules 1996(**4**), where the Principal Reporter arranges any Children's Hearing, he or she shall, wherever practicable–

(a) at least seven days before the date of the Hearing, notify the legal representative of the time and place of the Hearing; and

(b) at least three days before the date of the Hearing, give to the legal representative a copy of the documents which are relevant to the case of a child to be considered at the Hearing.

Panel of legal representatives

5.—(1) Where the business meeting or Children's Hearing appoints a legal representative, the local authority shall make appropriate arrangements for a legal representative to attend the Hearing, who shall be a person who holds a current practising certificate issued by the Law Society of Scotland and who is appointed to one of the following:–

(a) the panel of persons to safeguard the interests of children established under the Social Work (Panels of Persons to Safeguard the Interests of Children) (Scotland) Regulations 2001(**5**) for the local authority area within which the child resides, or if circumstances require, from any other local authority list in Scotland; or

(b) the panel of curators ad litem and reporting officers established under the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001(**6**) for the Sheriff

(**3**) S.I.1996/3255.
(**4**) S.I. 1996/3261.
(**5**) S.S.I. 2001/476.
(**6**) S.S.I. 2001/477.