

Draft Regulations laid before the Scottish Parliament under section 105(1) of the Criminal Justice (Scotland) Act 2016 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

CRIMINAL PROCEDURE

The Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019

Made - - - - 2019

Coming into force - - 10th January 2020

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 98(1)(b) and (2), 99, 100(a), 101(a)(i) and (b) and 104(1) and (2) of the Criminal Justice (Scotland) Act 2016⁽¹⁾ and all other powers enabling them to do so.

The Scottish Ministers have consulted publicly in accordance with section 105(2) of that Act.

In accordance with section 105(1) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019 and come into force on 10 January 2020.

Interpretation

2. In these Regulations—

“the 2016 Act” means the Criminal Justice (Scotland) Act 2016,

“constable” has the meaning given in section 62 of the 2016 Act,

“officially accused” has the meaning given in section 63 of the 2016 Act,

“police” means any—

(a) constable, or

(b) person appointed as a member of police staff under section 26(1) of the Police and Fire Reform (Scotland) Act 2012⁽²⁾,

(1) 2016 asp 1.

(2) 2012 asp 8.

“provider of appropriate adult support” means the local authority upon whom the function has been conferred by regulation 4(1) or any person with whom the local authority has entered into a contract under regulation 4(2),

“Social Care and Social Work Improvement Scotland” means the body established by section 44 of the Public Services Reform (Scotland) Act 2010(3).

Meaning of appropriate adult support

3.—(1) For the purposes of Chapter 2 of Part 6 of the 2016 Act and these Regulations, “appropriate adult support” includes support of the sort mentioned in paragraph (2) for vulnerable persons during a criminal investigation by the police where—

- (a) The vulnerable person—
 - (i) is or appears to be the victim of an offence or alleged offence,
 - (ii) is a witness or potential witness in relation to an offence or alleged offence,
 - (iii) is suspected of committing an offence or alleged offence or,
 - (iv) is officially accused of committing an offence or alleged offence,
 - (b) a constable believes that the vulnerable person is 16 years of age or over and,
 - (c) intimation of the matters mentioned in paragraph (3) is sent by the police to a provider of appropriate adult support.
- (2) That is, support to—
- (a) help the vulnerable person to understand what is happening, and
 - (b) facilitate effective communication between the vulnerable person and the police.
- (3) Those matters are—
- (a) that appropriate adult support is, in the view of the constable, required by the vulnerable person, and
 - (b) the place where the appropriate adult support is required.

Responsibility for ensuring availability of appropriate adults

4.—(1) Each local authority has the function of ensuring that people are available to provide appropriate adult support when it is required within that local authority area.

(2) In discharging the function referred to in paragraph (1), a local authority may enter into a contract with another person.

(3) In discharging the function referred to in paragraph (1), local authorities must have regard to guidance issued by the Scottish Ministers in accordance with section 104(2)(b) of the 2016 Act.

Assessment of quality of appropriate adult support

5. Social Care and Social Work Improvement Scotland has the functions of—

- (a) assessing the quality of whatever arrangements may be in place to ensure that people are available to provide appropriate adult support, and
- (b) assessing the quality of any appropriate adult support that is provided.