

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Safeguarders

Section 32 – The Safeguarders Panel

34. Safeguarders are independent persons appointed by a court or Children's Hearing when it is considered necessary to safeguard the interests of the child in cases before them. Subsection (1) places a duty on the Scottish Ministers to establish a national panel of Safeguarders, to be known as the Safeguarders Panel. Subsection (2) enables the Scottish Ministers to make regulations in relation to the Safeguarders Panel, including the establishment and management of the Safeguarders Panel and the appointment, qualifications and training of members of the Panel. These regulations will be subject to negative procedure. Subsection (3) provides the Scottish Ministers with the power to enter into arrangements, contractual or otherwise, for the management of the Safeguarders Panel with another organisation other than SCRA or CHS.

Section 33 – Functions of safeguarder

35. **Section 31** relates to the functions of Safeguarders once appointed by a Children's Hearing or sheriff. Subsection (1)(a) sets out the duty of a Safeguarder on appointment to provide a report, except in the circumstances set out in subsection (2), when a hearing directs the Principal Reporter to make an application to a sheriff for the establishment of grounds. Subsection (1)(b) provides that Safeguarders must attend all Children's Hearings so far as is reasonably practicable. A hearing can also require a Safeguarder to prepare additional reports where they consider that appropriate under subsection (1)(c).

Section 34 – Safeguarders: regulations

36. This section enables Scottish Ministers to make regulations about Safeguarders including imposing additional requirements on Safeguarders, conferring additional powers, including appeal rights on Safeguarders, and providing for the termination of Safeguarder appointments. These regulations will be used to review and develop the role of Safeguarders, particularly their role in court proceedings. The regulations will be subject to negative procedure.