1985 No. 843 (S.78)

CHILDREN AND YOUNG PERSONS SHERIFF COURT, SCOTLAND

The Children's Hearings (Scotland) (Amendment—Safeguarders) Rules 1985

Made - - - - -	*22nd May* 1985
Coming into Operation	*30th June* 1985

In exercise of the powers conferred on me by sections 34A(2) and 35(4) and (5), of the Social Work (Scotland) Act 1968 **(a)** and of all other powers enabling me in that behalf, and after consultation with the Council on Tribunals, I hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the Children's Hearings (Scotland) (Amendment—Safeguarders) Rules 1985 and shall come into operation on 30th June 1985.

Interpretation

2. In these Rules—

"the principal Rules" means the Children's Hearings (Scotland) Rules 1971 **(b)**.

Amendment of rule 2 of the principal Rules (interpretation)

3. In rule 2(1) of the principal Rules there shall be inserted at the appropriate place in alphabetical order, the following entry:—

""safeguarder" means a person appointed under section 34A of the Act for the purpose of safeguarding the interests of a child;".

Amendment of rule 6 of the principal Rules (notification of hearings to chairman and members etc.)

4.—(1) In rule 6(1) after sub-paragraph (*d*) there shall be inserted the following sub-paragraph:—

"(*e*) where a safeguarder has been appointed, a copy of any report which the safeguarder may have prepared.".

(a) 1968 c.49; section 34A was inserted by the Children Act 1975 (c.72), section 66 and section 35(5) was amended by the Children Act 1975, Schedule 3, paragraph 55.

(b) S.I. 1971/492, amended by S.I. 1983/1424 and 1984/100.

(2) After rule 6(3) of the principal Rules there shall be inserted the following paragraph:—

"(3A) (*a*) Any information or document which the reporter makes available in compliance with the foregoing (under exception of rule 6(1)(*e*)) or otherwise to the chairman and members of any children's hearing shall also be made available to any safeguarder who is appointed under the Act, regardless of the date of his appointment;

(*b*) Any safeguarder appointed under the Act shall keep securely in his custody any documents made available to him under this rule, shall not cause or permit any information contained in the said documents or otherwise disclosed during the hearing to be made known to any person, other than may be necessary for the performance of his own duties, and shall return to the reporter any document which has been made available to him when he has completed performance of all the duties associated with his appointment.".

Amendment of rule 9 of the principal Rules (functions of chairman of children's hearings)

5. In rule 9(3) of the principal Rules after sub-paragraph (*b*) there shall be inserted the following sub-paragraph:—

"(*c*) a decision to appoint a person to act as a safeguarder in accordance with section 34A of the Act.".

New rule 11A

6. After rule 11 of the principal Rules there shall be inserted the following rule:—

"*Safeguarder's attendance at children's hearings*

11A. Any safeguarder appointed under the Act shall be entitled to be present throughout the duration of a children's hearing.".

Amendment of rule 17 of the principal Rules (conduct of children's hearing etc.)

7.—(1) In rule 17(2)(*c*) of the principal Rules after "parent" there shall be inserted the words "any safeguarder appointed under the Act,".

(2) In rule 17(2)(*d*) of the principal Rules the words "said child and his parent" shall be deleted and in their place there shall be inserted the words "said child, his parent, and any safeguarder appointed under the Act".

(3) In rule 17(4) after the words "his parent" there shall be inserted the words "any safeguarder appointed under the Act,".

Amendment of rule 18 of the principal Rules (notification of decisions etc.)

8.—(1) In rule 18(1) of the principal Rules the words "and his parent" shall be deleted and in their place there shall be inserted the words "his parent and any safeguarder appointed under the Act,".

(2) In rules 18(2) and 18(2)(*b*) of the principal Rules after the words "or his parent", and "the parent", there shall be inserted the words "or any safeguarder appointed under the Act,".

Amendment of rule 19 of the principal Rules (conduct of children's hearing on reference for advice etc.)

9.—(1) In rule 19(3) the word "and" at the end of sub-paragraph (*b*) shall be deleted, and the word "and" shall be inserted at the end of sub-paragraph (*c*);

(2) after sub-paragraph (*c*) there shall be inserted the following sub-paragraph:—

"(*d*) accord to any safeguarder appointed under the Act the same opportunity to discuss the case of the child and of being heard on the case and on what arrangements with respect to the child would be in the best interests of the child as are to be accorded to the parties mentioned in sub-paragraphs 3(*b*) and (*c*) above.".

Amendment of rule 20 of the principal Rules (suspension of supervision requirements etc.)

10. In rule 20(3) of the principal Rules after the word "representative," there shall be inserted the words "and any safeguarder appointed under the Act,".

Amendment of rule 23 of the principal Rules (procedure relating to warrants, etc.)

11. In rule 23 of the principal Rules there shall be inserted after paragraph (2) the following paragraph:—

"(3) A safeguarder appointed under the Act shall be afforded the same opportunities of being heard and of receiving copies of the said warrant as are to be afforded to the parties mentioned in paragraphs (1) and (2) above.".

Amendment of rule 28 of the principal Rules (reports of proceedings of children's hearings)

12. In rule 28(2) of the principal Rules there shall be inserted after sub-paragraph (*e*) the following sub-paragraph:—

"(*ee*) the full name and address of any safeguarder appointed under the Act;".

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
22nd May 1985.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

The Rules provide for further amendment to the Children's Hearings (Scotland) Rules 1971 to allow for the involvement in children's hearings of persons appointed under section 66 of the Children Act 1975 to safeguard the interests of children in proceedings before a children's hearing where there is, or may be, a conflict of interest between the child and his parent(s).

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