Draft Regulations laid before the Scottish Parliament under section 96(2) of the Social Security (Scotland) Act 2018 (asp 9), for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

SOCIAL SECURITY

The Care Leaver Payment (Scotland) Regulations 2026

Made - - - -	*2026*
Coming into force - -	*1st April 2026*

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 93A(1) of the Social Security (Scotland) Act 2018(**a**) and all other powers enabling them to do so.

In accordance with section 93A(10) of that Act, the Scottish Ministers have consulted such persons as they considered representative of individuals who have had experience of being in the care system and such other persons as they considered appropriate.

In accordance with section 96(2) of that Act(**b**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 97(2) of that Act(**c**), the Scottish Ministers have informed the Scottish Commission on Social Security of their proposals, notified the Scottish Parliament that they have done so and made their proposals publicly available by such means as they consider appropriate.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Care Leaver Payment (Scotland) Regulations 2026 and come into force on 1 April 2026.

(**a**) 2018 asp 9. Section 93A was inserted by section 2 of the Social Security (Amendment) (Scotland) Act 2025 (asp 2) ("the 2025 Act").
(**b**) Section 96(2) was amended by section 26(2) of the 2025 Act.
(**c**) Section 97(2) was amended by section 20(2)(c) of the 2025 Act.

Interpretation

2. In these Regulations—

"the 1995 Act" means the Children (Scotland) Act 1995(**a**),

"care leaver payment" means the financial assistance described in regulation 4,

"continuing care" is to be construed in accordance with section 26A(**b**) of the 1995 Act,

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**c**),

"looked after" is to be construed in accordance with section 17(6) of the 1995 Act(**d**),

"relevant authority" means a responsible authority, or the local authority who made a determination under regulation 7(4),

"responsible authority" means the local authority which last looked after the individual who is entitled to a care leaver payment under these Regulations.

PART 2

Entitlement and assistance to be given

Entitlement to care leaver payments

3.—(1) An individual who is described in paragraphs (2) or (3) is entitled to a care leaver payment from the responsible authority.

(2) An individual who—

(a) was looked after on or after their 16th birthday,

(b) ceases to be looked after on or after 1 April 2026, and

(c) is not in receipt of continuing care.

(3) An individual who—

(a) was in receipt of continuing care, and

(b) ceases to receive continuing care on or after 1 April 2026.

(4) An individual is not entitled to a care leaver payment if the individual has previously received a care leaver payment.

Value and form of care leaver payments

4.—(1) The value of a care leaver payment is £2000.

(2) A care leaver payment is to be given as money (subject to paragraphs (3) and (4)).

(3) The responsible authority may, with the individual's agreement—

(a) make the care leaver payment (in whole or in part) in the form of a voucher,

---

(**a**) 1995 c. 36.
(**b**) Section 26A was inserted by section 67(1) of the Children and Young People (Scotland) Act 2014 (asp 2014).
(**c**) 1994 c. 39.
(**d**) Section 17(6) was amended by paragraph 9(4)(b) of schedule 2 of the Adoption and Children (Scotland) Act 2007 (asp 4), paragraph 2 of schedule 5 of the Children's Hearings (Scotland) Act 2011 (asp 1) and paragraph 9(3) of schedule 1 of S.S.I. 2013/211.

(b) make the care leaver payment (in whole or in part) to a provider of goods or services on behalf of the individual.

(4) Where the responsible authority considers that the individual may be at risk of financial abuse, it may make a care leaver payment (in whole or in part) in the form of a voucher.

(5) In making a decision to which paragraph (4) applies, the responsible authority must—

(a) have regard to the individual's circumstances (so far as those circumstances are known to the responsible authority),

(b) give the individual the opportunity to express their views, and

(c) have regard to any views expressed by the individual.

Making care leaver payments

5.—(1) Subject to paragraph (2), where an individual is entitled to a care leaver payment under regulation 3, the responsible authority must make the payment as soon as reasonably practicable after—

(a) where the individual is a person described in regulation 3(2), the date on which the individual ceases to be looked after,

(b) where the individual is a person described in regulation 3(3), the date on which the individual ceases to receive continuing care.

(2) The responsible authority may, with the individual's agreement, make the care leaver payment in two equal instalments.

(3) Where the care leaver payment is to be made in two equal instalments in accordance with paragraph (2), the responsible authority must—

(a) make the first instalment as soon as reasonably practicable after—

(i) where the individual is a person described in regulation 3(2), the date on which the individual ceases to be looked after,

(ii) where the individual is a person described in regulation 3(3), the date on which the individual ceases to receive continuing care,

(b) agree with the individual a suitable date on which to make the second instalment.

PART 3

Procedural matters

Notification of entitlement

6.—(1) Where a responsible authority determines an individual's entitlement to a care leaver payment, the responsible authority must, as soon as reasonably practicable, notify the individual—

(a) of the determination,

(b) of the reasons for it,

(c) where the individual is entitled to a care leaver payment, how the payment will be made,

(d) of any other information that the responsible authority considers appropriate.

(2) The responsible authority must fulfil their duty under paragraph (1) in a way that leaves the individual with a record of the information which they can show to, or otherwise share with, others.

Right to request entitlement determination

7.—(1) An individual, who believes that they are entitled to a care leaver payment but has not been notified in accordance with regulation 6(1), may make a request to a local authority for their entitlement to a care leaver payment to be determined.

(2) A request under paragraph (1) must—

(a) be made in such form, if any, as the local authority requires, and

(b) specify the reasons why the individual believes that they are entitled to a care leaver payment.

(3) If the local authority, to whom a request under paragraph (1) is made, is not the responsible authority for the individual that local authority must, as soon as reasonably practicable and with the individual's agreement—

(a) take reasonable steps to ascertain whether there is a responsible authority for the individual,

(b) where the responsible authority for the individual is identified, send the request to the responsible authority to make a determination of the individual's entitlement to a care leaver payment.

(4) Where no responsible authority for the individual is identified, the local authority to whom the request under paragraph (1) was made must, as soon as reasonably practicable, determine the individual's entitlement to a care leaver payment.

(5) Where a local authority determines an individual's entitlement to a care leaver payment under paragraph (4), the local authority must, as soon as reasonably practicable, notify the individual of—

(a) the determination,

(b) the reasons for it,

(c) any other information that the local authority considers appropriate.

(6) The local authority must fulfil their duty under paragraph (5) in a way that leaves the individual with a record of the information which they can show to, or otherwise share with, others.

Right to review of entitlement determination

8.—(1) Where a relevant authority determines that an individual is not entitled to a care leaver payment, the individual may request a review of that determination.

(2) A request under paragraph (1) must—

(a) be made to the relevant authority who made the determination,

(b) be made before the end of the day that falls one year after the day on which the individual is notified of the relevant authority's determination under regulation 6(1) or, as the case may be, 7(4),

(c) be made in such form, if any, as the relevant authority requires, and

(d) specify the reasons why the individual believes that they are entitled to a care leaver payment.

Duty to review entitlement determination

9.—(1) On receiving a request under regulation 8(1), the relevant authority must appoint an officer of the relevant authority who was not involved in the determination to which the request relates.

(2) The officer appointed under paragraph (1) must review the determination as soon as reasonably practicable after receiving the request.

Notification of outcome of review

10.—(1) Where a responsible authority reviews a determination under regulation 9, it must, as soon as reasonably practicable, notify the individual—

(a) of the outcome of the review,

(b) where the individual is entitled to a care leaver payment, how the payment will be made,

(c) of any other information that the responsible authority considers appropriate.

(2) Where a local authority reviews a determination under regulation 9 it must—

(a) as soon as reasonably practicable, notify the individual of—

(i) the outcome of the review,

(ii) any other information that the local authority considers appropriate,

(b) where the individual is entitled to a care leaver payment, as soon as reasonably practicable and with the individual's agreement, send the outcome of the review to the responsible authority.

(3) Where a responsible authority is sent the outcome of a review in accordance with paragraph (2)(b), it must, as soon as reasonably practicable, notify the individual how the care leaver payment will be made.

(4) The relevant authority must fulfil their duties under paragraphs (1), (2) or (3) in a way that leaves the individual with a record of the information which they can show to, or otherwise share with, others.

Presumption for purposes of regulations 6(1), 7(5) and 10

11.—(1) Paragraph (2) applies where a relevant authority is required to notify an individual in accordance with regulations 6(1), 7(5) or 10.

(2) Where a responsible authority sends information—

(a) through the postal service, to the last known address the relevant authority has for the individual, or

(b) by email, to the email address most recently provided to the relevant authority for the purposes of these Regulations,

the individual is to be taken to have received the information 48 hours after it is sent by the relevant authority, unless the contrary is shown.

Obtaining information

12. Where a relevant authority—

(a) is—

(i) determining, in accordance with regulation 6(1) or, as the case may be, 7(4) whether an individual is entitled to a care leaver payment, or

(ii) reviewing a determination in accordance with regulation 9, and

(b) requires further information in order to satisfy itself about any matter material to that determination,

it may request that the individual provide it with such information as it requires.

Right to a supporter

13.—(1) The relevant authority must comply with an individual's request to have another person ("a supporter") present during any discussion relating to a care leaver payment, unless the request is unreasonable.

(2) The role of a supporter is to support the individual during the discussion, and includes making representations on the individual's behalf.

(3) Nothing in this regulation is to be read as requiring the relevant authority to provide or pay for a supporter.

Duty to provide advice and assistance

14.—(1) Where a care leaver payment is to be made to an individual under these Regulations, the responsible authority must provide such advice and assistance to the individual in connection with the care leaver payment, as it considers appropriate.

(2) For the purposes of paragraph (1), the duty to provide advice and assistance includes the provision of an interpreter, where—

(a) one is requested, or

(b) where the responsible authority otherwise considers it necessary.

Liability for care leaver payment given in error

15.—(1) Subject to regulation 16, an individual is liable to pay a responsible authority the value of any care leaver payment that was made to the individual by the responsible authority under these Regulations, to the extent that the payment was due to an error.

(2) For the avoidance of doubt, the individual's liability under paragraph (1) is limited to the difference in value between—

(a) the care leaver payment that was made, and

(b) the care leaver payment (if any) that would have been made had the error not been made.

(3) In this regulation and regulation 16, an "error" means—

(a) an error when making a care leaver payment under these Regulations, or

(b) an error which led to a determination by the responsible authority to make a payment under these Regulations—

(i) incorrectly, or

(ii) correctly but on the basis of incorrect or misleading information.

Exclusion from liability

16.—(1) An individual has no liability under regulation 15 in respect of a care leaver payment made in error if the error is not—

(a) the individual's fault, or

(b) the kind of error that an individual could reasonably be expected to notice.

(2) For the purpose of paragraph (1)(a), an error is an individual's fault if it is caused or contributed to by the individual—

(a) providing false or misleading information, or

(b) causing another person to provide false or misleading information.

(3) In considering whether an error is of a kind that an individual could reasonably be expected to notice, regard is to be had in particular to—

(a) the extent to which the value of the care leaver payment made in error exceeds the value of the care leaver payment that would have been made (if any) had the error not been made,

(b) whether any information given to the individual by the relevant authority prior to, or immediately after, the care leaver payment being made would have alerted a reasonable person to the fact that a determination had been, or was to be, made on the basis of incorrect information.

(4) In—

(a) paragraph (2)(a), the reference to providing information includes making a statement,

(b) paragraph (3)(b), the reference to information given to the individual by the relevant authority does not include information explaining why the relevant authority considers the care leaver payment to have been made in error.

Consideration of debtor's circumstances

17. In making a decision about whether to seek to recover a care leaver payment from an individual, the responsible authority must have regard to the financial circumstances of the individual (so far as those circumstances are known to the responsible authority).

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about a type of financial assistance established by the Scottish Ministers under section 93A(1) of the Social Security (Scotland) Act 2018.

The assistance is to be known as a "care leaver payment" and it is to be given to young people leaving the care of the local authority which last looked after them (the "responsible authority").

Part 1 provides for citation, commencement and interpretation.

Part 2 sets out the eligibility, value and form of a care leaver payment, and how payment is or may be made by responsible authorities.

Part 3 makes provision about procedural matters:

- Regulation 6 sets out the duties of the responsible authority in relation to notifying an individual that they are entitled to a care leaver payment.
- Regulation 7 makes provision about an individual's entitlement to make a request to any local authority for a determination as to their entitlement to a care leaver payment where the individual believes that they are entitled to that payment but has not been notified in accordance with regulation 6 in relation to the payment.
- Regulation 8 makes provision about an individual's right to request a review of a determination by a relevant authority (a responsible authority or a local authority who made a determination in accordance with regulation 7(4)) not to award the individual a care leaver payment.
- Regulation 9 sets out the relevant authority's duty to review an entitlement determination and the timescales within which a review must be completed.
- Regulation 10 sets out the duties of the responsible authority or, as the case may be, a local authority (other than a responsible authority) in relation to notifying an individual about the outcome of a review.
- Regulation 11 provides that, where a relevant authority is required to notify an individual in accordance with regulations 6(1), 7(5) and 10, it is to be presumed that the information is received 48 hours after it is sent, whether it is sent by post or email to the most up-to-date address the responsible authority holds for the individual. This is, however, only a presumption which can be rebutted if it can be proved that the information was received sooner or later than that.
- Regulation 12 provides that a relevant authority may request information material to its consideration of an individual's entitlement to a care leaver payment.
- Regulation 13 makes provision about an individual's right to a supporter in any discussion relating to a care leaver payment.
- Regulation 14 sets out the responsible authority's duty to provide such advice and assistance in connection with the care leaver payment to the individual, as it considers appropriate.
- Regulations 15 and 16 set out an individual's liability for repayment of a care leaver payment which is made in error.
- Regulation 17 sets out a responsible authority's duty to have regard to an individual's circumstances before seeking recovery of a care leaver payment made in error.

© Crown Copyright 2026

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

£8.90

http://www.legislation.gov.uk/id/sdsi/2026/9780111065112

ISBN 978-0-11-106511-2

9 780111 065112