SCOTTISH STATUTORY INSTRUMENTS

2015 No. 62

CHILDREN AND YOUNG PERSONS

The Support and Assistance of Young People Leaving Care (Scotland) Amendment Regulations 2015

Made - - - -	*17th February 2015*
Laid before the Scottish Parliament	*19th February 2015*
Coming into force - -	*1st April 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 73(2)(a), (c) and (d) and (3) of the Regulation of Care (Scotland) Act 2001(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Support and Assistance of Young People Leaving Care (Scotland) Amendment Regulations 2015 and come into force on 1st April 2015.

Amendment of the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003

2.—(1) The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003(**b**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of "appellant" for "or (2)" substitute ", (5A) or (5B)"(**c**);

(b) in the definition of "compulsorily supported person" after "1995 Act" insert "or, after a pathway assessment, in terms of section 29(5A)(a) of the 1995 Act";

(c) in the definition of "discretionarily supported person"—

(i) after "whom" insert ", after a pathway assessment,";

(ii) for "29(2)" substitute "29(5A)(b)"; and

(iii) after "1995 Act" insert "or a young person to whom a local authority has agreed to continue to provide advice, guidance and assistance after the person reaches the age of twenty-six in terms of section 29(5B) of the 1995 Act"; and

(d) in the definition of "pathway plan" for "or 29(2)" substitute ", (5A) or (5B)".

(3) In regulation 7(1) (pathway assessment – general) after "compulsorily supported persons" insert "under section 29(1) of the 1995 Act".

(**a**) 2001 asp 8. Section 73(2)(a) is amended by paragraph 8 of schedule 5 to the Children and Young People (Scotland) Act 2014 (asp 8) ("the 2014 Act").
(**b**) S.S.I. 2003/608 as amended by S.S.I. 2013/137 and S.S.I. 2013/147.
(**c**) Section 29(5A) and (5B) of the Children (Scotland) Act 1995 (c.36) was inserted by section 66(2)(f) of the 2014 Act.

(4) In regulation 8(1) (pathway assessment – individual cases) after "compulsorily supported person" insert "under section 29(1) of the 1995 Act".

(5) In regulation 9(a) (pathway assessments – timescales) after "compulsorily supported person" where it first occurs insert "under section 29(1) of the 1995 Act".

(6) In regulation 11 (pathway plans – timescales)—

(a) in paragraph (1) after "compulsorily supported person" insert "under section 29(1) of the 1995 Act";

(b) in paragraph (2)—

(i) omit "shall"; and

(ii) for ", decide whether to grant the prospective supported person's application for advice, guidance and assistance in terms of section 29(2) of the 1995 Act." substitute—

"(a) must, if satisfied that the person has any eligible needs which cannot be met other than by taking action under section 29(5A)(a) of the 1995 Act, decide that it will provide the person with such advice, guidance and assistance as it considers necessary for the purposes of meeting those needs; or

(b) may otherwise, under section 29(5A)(b) of the 1995 Act, decide to provide such advice, guidance and assistance as it considers appropriate having regard to the person's welfare.";

(c) in paragraph (4)—

(i) for "grant of an application for advice, guidance and assistance under section 29(2) of the 1995 Act" substitute "decision under paragraph (2)"; and

(ii) for "the discretionarily supported person" substitute—

"(a) the compulsorily supported person under section 29(5A)(a) of the 1995 Act; or

(b) the discretionarily supported person under section 29(5A)(b) of the 1995 Act."; and

(d) after paragraph (4) insert—

"(5) If a responsible authority decides under section 29(5B) of the 1995 Act to continue to provide advice, guidance and assistance to a young person after the person reaches the age of twenty-six, the responsible authority shall, within 21 days of that decision, prepare a pathway plan for that discretionarily supported person.".

(7) In regulation 16(1) (appeals – general) for the words from "not" to the end of the paragraph substitute—

"(a) not to provide advice, guidance and assistance under section 29(5A) of the 1995 Act;

(b) not to continue to provide advice, guidance and assistance under section 29(5B) of the 1995 Act; or

(c) in relation to the level or nature of advice, guidance or assistance to be provided under section 29(1), (5A) or (5B) of the 1995 Act,

shall be dealt with as an appeal in accordance with paragraphs (3) and (4) of this regulation, and regulations 17 to 20.".

FIONA McLEOD
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
17th February 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 ("the 2003 Regulations") in consequence of amendments made to section 29 of the Children (Scotland) Act 1995 ("the 1995 Act") by section 66 of the Children and Young People (Scotland) Act 2014 ("the 2014 Act").

Section 29 of the 1995 Act makes provision as to the duties and powers of local authorities to provide aftercare assistance to young people who were formerly looked after by them in terms of section 17(6) of the 1995 Act. The 2003 Regulations supplement section 29 of the 1995 Act and make provision as to how young persons are to be assessed for the purposes of section 29(5), the manner in which aftercare assistance may be provided and the procedures which local authorities must establish to consider representations (including complaints) by young people.

Section 66 of the 2014 Act amends section 29 of the 1995 Act to change the powers and duties of local authorities in relation to aftercare and so, in consequence, it is necessary to amend the 2003 Regulations to take into account the amended section 29.

Article 2 of this Order makes a number of consequential amendments to some of the key definitions in regulation 2(1) of the 2003 Regulations (e.g. "compulsorily supported person" and "discretionarily supported person") and also to regulations 7 to 9 and 11 (which deal with various aspects of pathway plans) and 16 (appeals) of the 2003 Regulations to take into account the amendments made to section 29 of the 1995 Act by section 66 of the 2014 Act.

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