
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations partially suspend on 29 September 2021 the operation of section 16 (duty of local authority to assess needs: Scotland) of the Coronavirus Act 2020 (“the 2020 Act”) insofar it relates to child social care and young carers. Certain provisions of section 16 have previously been suspended in relation to adult social care and adult carers by virtue of the Coronavirus Act 2020 (Suspension: Adult Social Care) (Scotland) Regulations 2020 ([S.S.I. 2020/377](#)). The partial suspension of section 16 of the 2020 Act means that those provisions no longer have effect in Scotland but are capable of being revived under section 88(3) of the 2020 Act.

Regulation 2 suspends the following provisions—

- section 16(3) and section 16(4)(c) and (d) (which permits a local authority to dispense with its duty to prepare a young carer statement under section 12 of the Carers (Scotland) Act 2016 (“the 2016 Act”), if it would be impractical or cause delay in the provision of support),
- section 16(3) and 16(4)(e) insofar as it relates to a young carer (which permits a local authority not to comply with section 1 of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the 2013 Act”) insofar as it relates to Part 2 and Part 3 of the 2016 Act),
- section 16(7) and (8) (which permits a local authority not to comply with its duty to assess the needs of a child affected by disability under section 23(3) of the Children (Scotland) 1995 (“the 1995 Act”) and section 1 of the 2013 Act, insofar as it relates to section 22 and 23 of the 1995 Act, if it would be impractical or cause delay in the provision of support),
- section 16(9) (which permits a local authority not to comply with its duty to carry out an assessment under section 29(5) of the 1995 Act in relation to a young person formerly looked after by that authority who requires after-care support, if it would be impractical or cause delay in the provision of support).

Regulation 3 makes transitional provision as follows:

- Regulation 3(1) as read with regulation 3(2), provides for the transition where a local authority has relied on section 16(3) of the 2020 Act, together with either section 16(4)(a) or 16(4)(b) or, insofar as it applies to a young carer, section 16(4)(e), in relation to a person and provided support to that person. The local authority must continue to provide that support until it has prepared a young carer statement, the person no longer has a requirement for support, the person has refused the offer of a young carer statement or the person’s existing young carer statement has been reviewed under the Carers (Scotland) Act 2016 (Review of Adult Carer Support Plan and Young Carer Statement) Regulations 2018.
- Regulation 3(3) as read with regulation 3(4), provides for the transition where a local authority has relied on section 16(7) of the 2020 Act in relation to a child, and provided services to that child under section 22(1) of the 1995 Act. The local authority must continue to provide those services until it has carried out an assessment under section 23(3) of the 1995 Act, having regard to section 1 of the 2013 Act, or the child no longer has a requirement for those services.
- Regulation 3(5) as read with regulation 3(6), provides for the transition where a local authority has relied on section 16(9) of the 2020 Act in relation to a young person, and provided advice, guidance or assistance to that person under section 29(1) or (5A) of the 1995 Act. The local authority must continue to provide such advice, guidance or assistance until it has carried out an assessment under section 29(5) of the 1995 Act or the young person no longer has a requirement for that advice, guidance or assistance.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

An Equality Impact Assessment has been produced for this instrument.