

POLICY NOTE

THE SUPPORT AND ASSISTANCE OF YOUNG PEOPLE LEAVING CARE (SCOTLAND) AMENDMENT REGULATIONS 2015

SSI 2015 No. 62

The above instrument was made in exercise of the powers conferred by section 73(2)(a), (c) and (d) and (3) of the Regulation of Care (Scotland) Act 2001 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

These Regulations make a number of amendments to the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 (“the 2003 Regulations”). These amendments are necessary 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 and make provision as to how young persons are to be assessed by local authorities for the purposes of section 29(5) of the 1995 Act, 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 as of 1st April 2015, by virtue of provision made in the Children and Young People (Scotland) Act 2014 (Commencement No. 7) Order 2015 which is laid at the same time as these Regulations. Amongst other things, it makes an amendment to increase the upper age limit for aftercare support from twenty-one to when the person reaches the age of twenty-six. It also inserts new subsections (5A) and (5B) into section 29. New subsection (5A)(a) provides that, after assessing under section 29(5) a person applying for aftercare under section 29(2), the local authority must, if satisfied that the person has eligible needs that cannot otherwise be met, provide the person with such advice, guidance and assistance as it considers necessary for the purposes of meeting those needs. Under new subsection (5A)(b) the local authority may otherwise provide such advice, guidance and assistance as it considers appropriate having regard to the person’s welfare. New subsection (5B) provides that a local authority can continue to provide advice, guidance and assistance after a person reaches the age of twenty-six, but they are not required to do so.

These Regulations make necessary consequential amendments to the 2003 Regulations in light of the amendments described above to section 29 of the 1995 Act. Specifically they amend the definitions of “compulsorily supported person”, “discretionarily supported person” and “pathway plan” in regulation 2(1), update regulations 7 to 9 and 11 relating to various aspects of pathway assessments and regulation 16 relating to appeals to reflect the amendments to section 29 of the 1995 Act made by section 66 of the 2014 Act.

Consultation

No formal consultation has been undertaken on these Regulations, which are essentially consequential and technical in nature. A public consultation took place on the Children and Young People Bill and extensive stakeholder engagement continued until Stage 3 of the Bill's progress through the Scottish Parliament. This included detailed discussion of proposals to extend eligibility for aftercare support from the current upper limit of reaching 21 years of age to 26th birthday and to adjust the assessment processes accordingly.

Impact Assessments

An equality impact assessment has not been completed on this instrument as these are consequential amendments relating to an extension of eligibility for aftercare support provided for by section 66 of the 2014 Act.

Financial Effects

The Minister for Children and Young People confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as this instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Children and Families Directorate
19 February 2015