
DRAFT SCOTTISH STATUTORY INSTRUMENTS

No.

SOCIAL SECURITY

The Care Leaver Payment (Scotland) Regulations 2026

Made - - - -

Coming into force

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

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

In accordance with section 96(2) of that Act, 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, 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].

Interpretation

2. In these Regulations—

“the 1995 Act” means the Children (Scotland) Act 1995(a),

(a) 1995 c. 36.

“care leaver payment” means the financial assistance described in regulation 4,
“continuing care” is to be construed in accordance with section 26A(a) of the 1995 Act,
“local authority” means a council constituted under section 2 of the Local Government etc.
(Scotland) Act 1994(b),
“looked after” is to be construed in accordance with section 17(6) of the 1995 Act(c),
“responsible authority” means the local authority which last looked after the individual.

PART 2

Eligibility and assistance to be given

Eligibility for a Care Leaver Payment

3.—(1) An individual who is described in paragraphs (2) or (3) is entitled to be paid a care leaver payment by 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 a care leaver payment

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

(2) The responsible authority may, with the individual’s agreement—

- (a) give the care leaver payment (in whole or in part) in the form of a voucher,
- (b) give the care leaver payment (in whole or in part) to a provider of goods or services on behalf of the individual.

Making payments

5.—(1) Subject to paragraph (2), where an individual is entitled to a care leaver payment under regulation 3, the responsible authority must give 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,

(a) Section 26A was inserted by section 67(1) of the Children and Young People (Scotland) Act 2014 (asp 2014).
(b) 1994 c. 39.
(c) Section 17 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), section 13 of the Children (Scotland) Act 2020 (asp 16) and paragraph 9(3) of schedule 1 of S.S.I. 2013/211. Section 17A was inserted by section 24 of the Children (Care and Justice) (Scotland) Act 2024 (asp 5).

- (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, give the care leaver payment in two equal instalments.
- (3) Where the care leaver payment is to be given in two equal instalments in accordance with paragraph (2), the responsible authority must—
 - (a) give 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 give 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, inform the individual—
- (a) of the determination,
 - (b) of the reasons for it,
 - (b) where the individual is entitled to a care leaver payment, how the payment will be given,
 - (c) 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 review

- 7.—(1) Where a responsible 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 responsible authority,
 - (b) be made before the end of the day that falls one year after the day on which the individual is informed of the responsible authority's determination in accordance with regulation 6(1),
 - (c) be made in such form, if any, as the responsible authority requires, and
 - (d) specify the reasons why the individual considers that they are eligible for a care leaver payment.

Duty to review determination

8.—(1) On receiving a request under regulation 7(1), the responsible authority must appoint an officer of the local 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.

Notice of review

9.—(1) Where a responsible authority reviews a determination under regulation 8, it must inform the individual—

- (a) of the outcome of the review,
- (b) where the individual is entitled to a care leaver payment, how the care leaver payment is to be given,
- (c) 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.

Obtaining information

10. Where a responsible authority—

- (a) is determining whether an individual is eligible for a care leaver payment, or reviewing a determination in accordance with regulation 8, 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 it requires.

Right to a supporter

11.—(1) The responsible 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 responsible authority to provide or pay for a supporter.

Duty to provide advice and assistance

12.—(1) Where an individual is to be given a care leaver payment 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 payment given in error

13.—(1) Subject to regulation 14, an individual is liable to pay a local authority the value of any payment that was given to the individual by the local 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 payment that was given, and
 - (b) the payment (if any) that would have been given had the error not been made.
- (3) In this regulation and regulation 14, an “error” means—
- (a) an error when making a payment under these Regulations, or
 - (b) an error which led to a decision by the local 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

14.—(1) An individual has no liability under regulation 13 in respect of a payment given in error if the error is neither—

- (a) the individual's fault, nor
- (b) the kind of error that an individual could reasonably be expected to notice.

(2) For the purpose of paragraph (1), 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 payment given in error exceeds the value of the payment that would have been given (if any) had the error not been made,
- (b) whether any information given to the individual by the local authority prior to, or immediately after, the payment being given would have alerted a reasonable person to the fact that a decision had been, or was to be, made on the basis of incorrect information or a wrong assumption.

(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 local authority does not include information explaining why the local authority considers the payment to have been given in error.

Consideration of debtor's circumstances

15. In making a decision about whether to seek to recover a payment under regulation 14, the local authority must have regard to the financial circumstances of the individual who owes the money (so far as those circumstances are known to the local authority).

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 “Care Leaver Payment” and it is to be given to young people leaving care of by the local authority which last looked after them (the “responsible authority”).

Part 1 provides for citation, commencement and interpretation.

Part 2 sets out eligibility, the value and form of a Care Leaver Payment, and how payment may be made.

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 right to request a review of a decision by the responsible authority not to award the individual a Care Leaver Payment.
- Regulation 8 sets out the responsible authority’s duty to review and the timescales for which a review must be completed.
- Regulation 9 sets out the duties of the responsible authority in relation to notifying an individual about the outcome of a review.
- Regulation 10 provides that a responsible authority may request information material to its consideration of an individual’s entitlement to a Care Leaver Payment.
- Regulation 11 makes provision about an individual’s right to a supporter in any discussion relating to a care leaver payment.
- Regulation 12 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 13 and 14 set out an individual’s liability for a Care Leaver Payment which is made in error.
- Regulation 15 sets out a local authority’s duty to have regard to an individual’s circumstances before seeking recovery of a Care Leaver Payment made in error.