

Draft Regulations laid before the Scottish Parliament under section 42(2) of the Carers (Scotland) Act 2016 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

SOCIAL CARE

The Carers (Scotland) Act 2016 (Adult Carers and Young Carers of Terminally Ill Persons: Timescales for Adult Carer Support Plans and Young Carer Statements etc.) Regulations 2021

Made - - - - *2021*
Coming into force - - *31st July 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 7(1), 8(1), 13 and 14(1) of the Carers (Scotland) Act 2016⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 42(2) of that Act, a draft instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Carers (Scotland) Act 2016 (Adult Carers and Young Carers of Terminally Ill Persons: Timescales for Adult Carer Support Plans and Young Carer Statements etc.) Regulations 2021 and come into force on 31 July 2021.

Interpretation

2. In these Regulations—

“the 2016 Act” means the Carers (Scotland) Act 2016,

“the 2018 Regulations” means the Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018⁽²⁾,

“notification date” is the date on which a relevant adult carer—

- (a) accepted an offer made by a responsible local authority to prepare an adult carer support plan under section 6 of the 2016 Act, or
- (b) requested an adult carer support plan in accordance with section 6 of the 2016 Act,

(1) 2016 asp 9.
(2) S.S.I. 2018/109.

“relevant adult carer” means an adult carer of a cared-for person who is terminally ill,
“relevant date” is the date on which a relevant young carer—

- (a) accepted an offer made by a responsible authority to prepare a young carer statement under section 12 of the 2016 Act, or
- (b) requested a young carer statement in accordance with section 12 of the 2016 Act,

“relevant young carer” means a young carer of a cared-for person who is terminally ill,
“substantive conversation” means the first conversation which the responsible local authority has with a relevant adult carer in accordance with regulation 2 of the 2018 Regulations,
“substantive young carer conversation” means the first conversation which the responsible authority has with a relevant young carer in accordance with regulation 3 of the 2018 Regulations,
“working day” means any day other than a Saturday, a Sunday or a day which, under the Banking and Financial Dealings Act 1971(3), is a bank holiday in Scotland.

Relevant adult carer: identification of urgent outcomes and needs for support

- 3.—(1) The 2018 Regulations are amended as follows.
- (2) After paragraph (2) of regulation 2 insert—

“(2A) When the responsible local authority first has a conversation with a relevant adult carer under paragraph (2), the authority must identify any personal outcomes and needs for support which are immediate or urgent in relation to that carer.”.
- (3) After paragraph (3) of regulation 2 insert—

“(4) For the purpose of this regulation, “a relevant adult carer” means an adult carer of a cared-for person who is terminally ill.”.

Relevant adult carer: timescales for identification of urgent outcomes and needs for support

4. For the purpose of preparing an adult carer support plan, the responsible local authority must ensure that the substantive conversation takes place—
 - (a) within five working days of the notification date, or
 - (b) on any other date which is requested by the relevant adult carer that is suitable for the authority.

Adult carer support plan for relevant adult carers: timescales

- 5.—(1) The responsible local authority is required to prepare an adult carer support plan in relation to a relevant adult carer, in accordance with the timescales set out in paragraphs (2) to (4).
- (2) The responsible local authority must prepare an adult carer support plan which includes, at least, the information set out in section 9(1)(a), (b), (e), (f), (i) and (j) of the 2016 Act—
 - (a) where the substantive conversation takes place in accordance with the timescales set out in regulation 4(a), within ten working days of the notification date, or
 - (b) where the substantive conversation takes place in accordance with the timescales set out in regulation 4(b), within ten qualifying working days of the notification date.
- (3) For the purpose of paragraph (2)(b), a qualifying working day is any working day—

- (a) in the period commencing on the notification date up to (but not including) the day on which a request is made by a relevant adult carer under regulation 4(b), and
 - (b) in the period commencing on the day on which the substantive conversation takes place.
- (4) The responsible local authority must agree with the relevant adult carer by when the adult carer support plan is to be revised to include, where applicable, the rest of the information which must be contained in the plan by virtue of section 9 of the 2016 Act.

Relevant young carer: identification of urgent outcomes and needs for support

- 6.—(1) The 2018 Regulations are amended as follows.
- (2) After paragraph (2) of regulation 3 insert—

“(2A) When the responsible authority first has a conversation with a relevant young carer under paragraph (2), the authority must identify any personal outcomes and needs for support which are immediate or urgent in relation to that carer.”.
 - (3) After paragraph (3) of regulation 3 insert—

“(4) For the purpose of this regulation, “a relevant young carer” means a young carer of a cared-for person who is terminally ill.”.

Relevant young carer: timescales for identification of urgent outcomes and needs for support

7. For the purpose of preparing a young carer statement, the responsible authority must ensure the substantive young carer conversation takes place—
- (a) within five working days of the relevant date, or
 - (b) on any other date which is requested by the relevant young carer that is suitable for the authority.

Young carer statement for relevant young carers: timescales

- 8.—(1) The responsible authority is required to prepare a young carer statement in relation to a relevant young carer, in accordance with the timescales set out in paragraphs (2) to (4).
- (2) The responsible authority must prepare a young carer statement which includes, at least, the information set out in section 15(1)(a) to (c), (f), (g), (j) and (k) of the 2016 Act—
 - (a) where the substantive young carer conversation takes place in accordance with the timescales set out in regulation 7(a), within ten working days of the relevant date, or
 - (b) where the substantive young carer conversation takes place in accordance with the timescales set out in regulation 7(b), within ten qualifying working days of the relevant date.
 - (3) For the purpose of paragraph (2)(b), a qualifying working day is any working day—
 - (a) in the period commencing on the relevant date up to (but not including) the date on which a request is made by a relevant young carer under regulation 7(b), and
 - (b) in the period from the date on which the substantive young carer conversation takes place.
 - (4) The responsible authority must agree with the relevant young carer by when the young carer statement is to be revised to include, where applicable, the rest of the information which must be contained in the statement by virtue of section 15 of the 2016 Act.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Carers (Scotland) Act 2016 (Adult Carers and Young Carers of Terminally Ill Persons: Timescales for Adult Carer Support Plans and Young Carer Statements etc.) Regulations 2021 No. 133

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Carers (Scotland) Act 2016 and come into force on 31 July 2021.

Regulation 3 amends regulation 2 of the Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 (“2018 Regulations”) to ensure that any immediate or urgent personal outcomes and needs for support in relation to an adult carer of a cared-for person who is terminally ill (“relevant adult carer”) are identified during the first conversation that takes place under regulation 2 of the 2018 Regulations.

Regulation 4 sets out the timescales in which the first conversation which the responsible local authority has with a relevant adult carer in accordance with regulation 2 of the 2018 Regulations (“substantive conversation”) must take place. The substantive conversation must take place within 5 working days of the notification date (which is defined in regulation 2). This conversation can also take place on any other date requested by the relevant adult carer that suits the authority.

Regulation 5 makes provision for the timescales in which an adult carer support plan must be prepared by a responsible local authority in relation to a relevant adult carer. Where a substantive conversation takes place in the timescales in regulation 4(a), a responsible local authority is required to prepare an adult care support plan within 10 working days of the notification date. Where a substantive conversation takes place in accordance with the timescales in regulation 4(b), the responsible local authority must prepare the plan within ten qualifying working days from the notification date. Paragraph (3) sets out what a qualifying working day is for the purpose of this regulation. Where the notification date is a working day, this will be a qualifying working day.

Regulation 6 amends regulation 3 of the 2018 Regulations to ensure that any immediate or urgent personal outcomes and needs for support in relation to a young carer of a cared-for person who is terminally ill (“relevant young carer”) are identified during the first conversation which takes place under regulation 3 of the 2018 Regulations.

Regulation 7 sets out the timescales in which the first conversation which the responsible authority has with a relevant young carer in accordance with regulation 3 of the 2018 Regulations (“substantive young carer conversation”) must take place. The substantive young carer conversation must take place within 5 working days of the relevant date (which is defined in regulation 2). This conversation can also take place on any other date requested by the relevant young carer that suits the authority.

Regulation 8 makes provision for the timescales in which a young carer statement must be prepared by a responsible authority in relation to a relevant young carer. Where a substantive young carer conversation takes place in the timescales in regulation 7(a), a responsible authority is required to prepare a young carer statement within 10 working days of the relevant date. Where a substantive young carer conversation takes place in accordance with the timescales in regulation 7(b), the responsible authority must prepare the statement within ten qualifying working days from the relevant date. Paragraph (3) sets out what a qualifying working day is for the purpose of this regulation. Where the relevant date is a working day, this will be a qualifying working day.