Draft Regulations laid before Parliament under section 6(9) of the Children (Leaving Care) Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

SOCIAL SECURITY

The Children (Leaving Care) Social Security Benefits (Scotland) Regulations 2004

Made - - - -	*2004*
Coming into force - -	*1st April 2004*

Whereas a draft of these Regulations has been laid before Parliament in accordance with section 6(9) of the Children (Leaving Care) Act 2000(**1**), and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by section 6(4), (6) and (7) of the Children (Leaving Care) Act 2000 and of all other powers enabling him in that behalf hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Children (Leaving Care) Social Security Benefits (Scotland) Regulations 2004 and shall come into force on 1st April 2004.

Entitlement to Benefits (Scotland)

2.—(1) For the purposes of section 6(2)(c) of the Children (Leaving Care) Act 2000 (exclusion from benefits of persons of a prescribed description)—

(a) a person of the description set out in paragraph (2) is hereby prescribed unless he is a person to whom paragraph (3)(b) applies; and

(b) a person of the description set out in paragraph (3) is hereby prescribed in relation only to entitlement to housing benefit.

(2) The description of person mentioned in paragraph (1)(a) is a person—

(a) who is less than 18 years of age,

(b) to whom a local authority in Scotland is obliged to provide advice, guidance and assistance in terms of section 29(1) of the Children (Scotland) Act 1995(**2**) (duty of local authorities

(**1**) 2000 c. 35.
(**2**) 1995 c. 36.

to provide after-care to persons who at the time when they cease to be of school age or at any subsequent time were, but are no longer, looked after by a local authority),

(c) who ceased to be looked after on or after 1st April 2004 and since the age of 14 has been looked after and accommodated for a period of, or periods totalling, 13 weeks or more, and

(d) who either—

(i) is not living with his family, or

(ii) is living with his family and is provided with regular financial assistance in terms of that section.

(3) The description of person mentioned in paragraph (1)(b) is a person—

(a) who falls within the description set out in paragraph (2)(a) to (d), and

(b) who also falls within a category of person prescribed in—

(i) provided the person is a lone parent, regulation 13(2)(a) (circumstances in which persons in relevant education may be entitled to income support) of;

(ii) regulation 13(2)(b) of; or

(iii) paragraph 1, 2, 7, 8, 10, 11, 12, 13, 24 or 25 of Schedule 1B (prescribed categories of person) to,

the Income Support (General) Regulations 1987(**3**) ("the Income Support Regulations").

(4) In this regulation—

(a) in calculating the period of, or periods, totalling 13 weeks referred to in paragraph (2)(c) no account shall be taken of any pre-planned series of short-term placements, of 4 weeks or less where the person returns to his family at the end of each such placement,

(b) "accommodated" means provided with accommodation by a local authority pursuant to its duties under section 25 of the Children (Scotland) Act 1995 or in compliance with a direction made in a supervision requirement under section 70(3) of that Act, but does not include circumstances where a person has been placed with his family either under arrangements made under section 26(1)(c) of that Act or in compliance with a direction made in a supervision requirement under that Act,

(c) "family" includes any person who has parental responsibility for another person who is less than 18 years of age and any person with whom that other person was living prior to being looked after by a local authority, but does not include a local authority,

(d) "lone parent" has the meaning assigned to it in regulation 2(1) of the Income Support Regulations,

(e) "looked after" has the meaning assigned to it in section 17(6) of the Children (Scotland) Act 1995.

(**3**) S.I.1987/1967; Schedule 1B was inserted by Schedule 1 to S.I.1996/206; relevant amending instruments are S.I.1999/2422, 1999/3109, 2000/681, 2000/1922 and 2000/1981.