

STATUTORY INSTRUMENTS

2016 No. 1257

CHILDREN AND YOUNG PERSONS, ENGLAND

The [^{F1}Childcare Act 2016 (Consequential Amendments)] Regulations 2016

Made - - - - 19th December 2016

Coming into force in accordance with regulation 1

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 1(2), (3), (4) and (7), 2(1), (2), (4) and (5) and 4(2) of the Childcare Act 2016^{M1}.

In accordance with section 4(4) of that Act, a draft of this instrument was laid before and approved by a resolution of each House of Parliament.

In accordance with section 2(3) of that Act, these Regulations are made with the consent of the Treasury.

F1 Words in Regulations title substituted (1.12.2022) by [The Childcare \(Free of Charge for Working Parents\) \(England\) Regulations 2022 \(S.I. 2022/1134\)](#), reg. 1(b), **Sch. para. 4(2)**

Marginal Citations

M1 2016 c. 5.

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the [^{F2}Childcare Act 2016 (Consequential Amendments)] Regulations 2016.

(2) Parts [^{F3}1] and 5 of these Regulations come into force 21 days after the day on which these Regulations are made.

^{F4}(3)

F2 Words in [reg. 1\(1\)](#) substituted (1.12.2022) by [The Childcare \(Free of Charge for Working Parents\) \(England\) Regulations 2022 \(S.I. 2022/1134\)](#), reg. 1(b), **Sch. para. 4(3)**

- F3** Word in reg. 1(2) substituted (1.12.2022) by The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), reg. 1(b), **Sch. para. 4(4)**
- F4** Reg. 1(3) omitted (1.12.2022) by virtue of The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), reg. 1(b), **Sch. para. 4(5)(a)**

Interpretation

F5 2.

- F5** Reg. 2 omitted (1.12.2022) by virtue of The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), reg. 1(b), **Sch. para. 4(5)(b)**

F6 **PART 2**

A qualifying child of working parents

- F6** Pt. 2 omitted (1.12.2022) by virtue of The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), reg. 1(b), **Sch. para. 4(5)(c)**

CHAPTER 1

Conditions relating to a qualifying child of working parents

Description of a qualifying child of working parents

3.

CHAPTER 2

Conditions relating to a parent, and any partner of the parent, of the child

Specified conditions relating to a parent, and any partner of the parent, of the child

4.

Specified conditions relating to the parent, and any partner of the parent, of the child – foster parents

4A.

The requirement to be in qualifying paid work

5.

Calculation of expected income

6.

Self-employed persons: start-up periods

7.

Qualifying paid work and work outside role as a foster parent: time off in connection with sickness or parenting

8.

Qualifying paid work and paid work outside role as a foster parent: caring, incapacity for work or limited capability for work

9.

Partner of a parent of the child

10.

CHAPTER 3

Declaration in respect of a young child

Conditions to be met by the person making the declaration

11.

Being in the United Kingdom

12.

Declaration: form and content

13.

Electronic communications

14.

Period of time for which the first declaration has effect

15.

Reconfirming declaration

16.

CHAPTER 4

Determinations

Determination by the Commissioners

17.

Determination by the responsible local authority

17A.

^{F7} PART 3

Information, reviews, appeals and penalties

F7 Pt. 3 omitted (1.12.2022) by virtue of The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), reg. 1(b), **Sch. para. 4(5)(d)**

Application to determinations made under regulation 17

18ZA.

CHAPTER 1

Information

Supply of information

18.

Unauthorised disclosure of information received under regulation 18

19.

CHAPTER 2

Reviews and appeals of determinations

Rights to review and appeal a determination under regulation 17

20.

Reviewing a determination under regulation 17

21.

Extension of time limit for applications for review

22.

Appealing a determination under regulation 17

23.

Powers of tribunal: appeals against determinations

24.

CHAPTER 3

Penalties

Penalties for inaccurate declarations

25.

Penalties for providing false or misleading information or statements

26.

Penalties for dishonesty

27.

Assessment and enforcement of penalties

28.

Reviewing a penalty

29.

Extension of time limit for applications for review

30.

Appealing against a penalty

31.

Powers of tribunal: appeals against penalties

32.

^{F8}PART 4

Local authorities' duty to secure early years provision

<p>F8 Pt. 4 omitted (1.12.2022) by virtue of The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), reg. 1(b), Sch. para. 4(5)(e)</p>
--

Duty to secure early years provision free of charge

33.

Nature of early years provision

34.

Availability of early years provision

35.

Requirement on local authority when discharging its duty under regulation 33

36.

Arrangements between local authorities and early years providers: termination

37.

Arrangements between local authorities and early years providers: requirements

38.

Having regard to guidance

39.

PART 5

Consequential amendments

Education Act 1996

40.—(1) The Education Act 1996 ^{M2} is amended as follows.

(2) In section 451(2A) (prohibition of charges for provision of education)—

(a) at the end of paragraph (a) omit the “or”; and

(b) at the end of paragraph (b) insert—

“or

(c) early years provision provided under arrangements made by a local authority in pursuance of any duty imposed under section 2 of the Childcare Act 2016 (whether or not the local authority provides the early years provision).”.

(3) In section 509A(5)(a) (local authorities in England: travel arrangements for children receiving early years education otherwise than at school)—

(a) the wording from “provided under arrangements” to the end becomes sub-paragraph (i); and

(b) at the end of sub-paragraph (i) insert—

“or

(ii) provided under arrangements made by a local authority in pursuance of any duty imposed under section 2 of the Childcare Act 2016 (whether or not the local authority provides the early years provision);”.

(4) In section 548(8)(a) (no right to give corporal punishment)—

(a) the wording from “provided under arrangements” to the end becomes sub-paragraph (i); and

(b) at the end of sub-paragraph (i) insert—

“or

(ii) provided under arrangements made by a local authority in pursuance of any duty imposed under section 2 of the Childcare Act 2016 (whether or not the local authority provides the early years provision).”.

Marginal Citations

M2 1996 c. 56. Section 451(2A) was inserted by section 17 of the [Childcare Act 2006 \(c. 21\)](#). Section 509A was inserted by section 124 of the [School Standards and Framework Act 1998 \(c. 31\)](#) and subsection (5)(a) was amended by paragraph 23 of Schedule 2 to the Childcare Act 2006. Section 548(8) was amended by [S.I. 2010/1158](#).

School Standards and Framework Act 1998

41. In the School Standards and Framework Act 1998 ^{M3}, in section 123(4)(a) (children with special educational needs)—

- (a) the wording from “provided under arrangements” to the end becomes sub-paragraph (i); and
- (b) at the end of sub-paragraph (i) insert—
 - “or
 - (ii) provided under arrangements made by a local authority in pursuance of any duty imposed under section 2 of the Childcare Act 2016 (whether or not the local authority provides the early years provision);”.

Marginal Citations

M3 1998 c. 31. Section 123(4) was amended by paragraph 34 of Schedule 2 to the Childcare Act 2006.

Children Act 2004

42.—(1) The Children Act 2004 ^{M4} is amended as follows.

- (2) In section 18(2) (director of children's services)—
 - (a) at the end of paragraph (e) omit the “and”; and
 - (b) at the end of paragraph (f) insert—
 - “and
 - (g) any function conferred on the authority under section 2 of the Childcare Act 2016.”.
- (3) In section 23(3) (sections 20 to 22: interpretation)—
 - (a) at the end of paragraph (c) omit the “and”; and
 - (b) at the end of paragraph (d) insert—
 - “and
 - (e) any function conferred on a local authority under section 2 of the Childcare Act 2016.”

Marginal Citations

M4 2004 c. 31. Section 18(2) and 23(3) were amended by section 16 of, and paragraph 1 of Schedule 3 to, the Childcare Act 2006, section 194 of the [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#) and [S.I. 2010/1158](#) and section 18(2) by paragraph 264 of Schedule 1 to the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#).

Education and Inspections Act 2006

43. In the Education and Inspections Act 2006 ^{M5}, in section 135(1) (functions to which this Chapter applies and related activities)—

(a) at the end of paragraph (e) omit the “and”; and

(b) after paragraph (e) insert—

“(ea) any function conferred on the local authority under section 2 of the Childcare Act 2016; and”.

Marginal Citations

M5 2006 c. 40. Section 135(1) was amended by [S.I. 2010/1158](#).

Signed by the authority of the Secretary of State for Education

Department for Education

Caroline Dinéage
Parliamentary Under Secretary of State

We consent

Robert Syms
Stephen Barclay
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first Regulations made under powers contained in the Childcare Act 2016 (c.5). The Regulations make further provision about free childcare for young children of working parents in England.

Regulation 3 sets out the conditions for a child to qualify as a child of working parents for the purposes of section 1(2)(c) of the Childcare Act 2016.

Regulations 4 to 10 specify the conditions relating to a parent, and any partner of the parent of the young child.

Regulations 11 to 16 make provision regarding the declaration which must be made in respect of the young child.

Regulation 17 makes provision regarding the determination that the Commissioners for Her Majesty's Revenue and Customs must make as to whether the young child meets some of the criteria to be a qualifying child of working parents.

Regulations 18 and 19 make provision regarding the sharing of information with the Commissioners for Her Majesty's Revenue and Customs to assist it in making determinations under regulation 17.

Regulations 20 to 24 make provision regarding applications for review and appeals of determinations made under regulation 17.

Regulations 25 to 32 make provision regarding penalties for inaccurate, false, misleading information or actions in connection with a determination made under regulation 17.

Regulations 33 to 38 make provision regarding English local authorities' duty to secure that early years provision is available free of charge.

Regulations 40 to 43 make amendments to primary legislation consequential to the provision made in these Regulations.

A paper version of Destitution Domestic Violence concession referred to in regulation 12(1)(d)(ii) may be obtained by writing to the Home Office at 2 Marsham Street, London, SW1P 4DF.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Childcare Act 2016 (Consequential Amendments) Regulations 2016.