
STATUTORY INSTRUMENTS

2018 No. 146

CHILDREN AND YOUNG PERSONS, ENGLAND

The Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2018

<i>Made</i>	- - - -	<i>6th February 2018</i>
<i>Laid before Parliament</i>		<i>7th February 2018</i>
<i>Coming into force</i>	- -	<i>1st April 2018</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 7 and 104 of the Childcare Act 2006⁽¹⁾.

Citation and commencement

1. These Regulations may be cited as the Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2018 and come into force on 1st April 2018.

Amendment of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014

2. In the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014⁽²⁾, in regulation 1(2) (interpretation)—

(a) in the definition of “eligible child”—

(i) for paragraph (a), substitute—

“(a) whose parent is entitled to any one or more of the following—

(i) child tax credit where that parent is not also entitled to working tax credit under the Tax Credits Act 2002⁽³⁾ and has an annual gross income not exceeding £16,190;

(ii) the guaranteed element of state pension credit under the State Pension Credit Act 2002⁽⁴⁾;

(1) 2006 c. 21. Section 7 was substituted by section 1(2) of the Education Act 2011 (c. 21).

(2) S.I. 2014/2147.

(3) 2002 c. 21.

(4) 2002 c. 16.

- (iii) income-based jobseekers' allowance under the Jobseekers Act 1995⁽⁵⁾;
- (iv) income-related employment and support allowance under the Welfare Reform Act 2007⁽⁶⁾;
- (v) income support under the Social Security and Contributions Act 1992⁽⁷⁾;
- (vi) support under Part VI of the Immigration and Asylum Act 1999⁽⁸⁾;
- (vii) universal credit where that parent had, in the relevant assessment period, earned income not exceeding the applicable amount;
- (viii) working tax credit run-on⁽⁹⁾;

(ii) for paragraph (f), substitute—

“(f) who is—

- (i) currently looked after by a local authority in England within the meaning given by section 22(1) of the Children Act 1989⁽¹⁰⁾; or
- (ii) currently looked after by a local authority in Wales within the meaning given by section 74(1) of the Social Services and Well-being (Wales) Act 2014⁽¹¹⁾;

(iii) for paragraph (g), substitute—

“(g) who has previously been—

- (i) looked after by a local authority in England within the meaning given by section 22(1) of the Children Act 1989; or
- (ii) looked after by a local authority in Wales within the meaning given by section 74(1) of the Social Services and Well-being (Wales) Act 2014,

and is no longer so looked after as a result of the making of one of the following orders—

- (aa) an adoption order within the meaning given by section 46(1) of the Adoption and Children Act 2002⁽¹²⁾;
- (bb) a special guardianship order within the meaning given by section 14A(1) of the Children Act 1989⁽¹³⁾;
- (cc) a child arrangements order within the meaning given by section 8(1) of the Children Act 1989⁽¹⁴⁾ which consists of, or includes, arrangements relating to when the child is to live with any person or with whom the child is to live or both of those things;

(b) at the appropriate place in the alphabetical order, insert—

⁽⁵⁾ 1995 c. 18

⁽⁶⁾ 2007 c. 5.

⁽⁷⁾ 1992 c. 4.

⁽⁸⁾ 1999 c. 33.

⁽⁹⁾ Working tax credits are, in certain circumstances, paid for four weeks (“run-on”) following a cessation of employment.

⁽¹⁰⁾ 1989 c. 41.

⁽¹¹⁾ 2014 anaw 4.

⁽¹²⁾ 2002 c. 38.

⁽¹³⁾ Section 14A was inserted by section 115 of the Adoption and Children Act 2002 (c. 38).

⁽¹⁴⁾ The definition of “child arrangements order” in section 8 was amended by section 12 of the Children and Families Act 2014 (c. 6).

““universal credit” means the benefit payable in accordance with Part 1 of the Welfare Reform Act 2012(15).”;

(c) after paragraph (2), insert—

“(3) For the purposes of paragraph (a)(vii) of the definition of an eligible child—

- (a) “earned income” means income for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013(16);
- (b) the relevant assessment period and the applicable amount are those referred to in paragraphs (4) to (6) as applicable;
- (c) where the parent is—
 - (i) a member of a couple who have jointly made a claim for, and are entitled to, universal credit; or
 - (ii) a member of a couple but has claimed, and is entitled to, universal credit as a single person,

references to applicable amounts in paragraphs (4) to (6) as applicable are to be read as references to the combined income of the couple.

(4) Except where paragraphs (5) or (6) apply, where the parent had earned income which did not exceed £1,283.34 in the universal credit assessment period(17) immediately preceding the date of the request for early years provision (period 1)—

- (a) the relevant assessment period is period 1; and
- (b) the applicable amount is £1,283.34.

(5) This paragraph applies where paragraph (4) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 2) immediately preceding period 1 referred to in that paragraph—

- (a) the relevant assessment period is the sum of period 1 and period 2 (SAP); and
- (b) the applicable amount is £2,556.67.

(6) This paragraph applies where paragraph (5) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 3) immediately preceding period 2 referred to in that paragraph—

- (a) the relevant assessment period is the period made up of SAP and period 3; and
- (b) the applicable amount is £3,850.”.

(15) 2012 c. 5.

(16) S.I. 2013/376.

(17) An assessment period is prescribed by regulation 1(2) of the Universal Credit Regulations 2013 as a period of one month beginning with the first day of entitlement and each subsequent period of one month during which entitlement subsists.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Education

6th February 2018

Nadhim Zahawi
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 ([S.I. 2014/2147](#)).

Regulation 2 amends the definition of “eligible child” to include a child whose parent is entitled to specified social security benefits (in some instances subject to income thresholds). In particular it deals with the inter-play between entitlement to the social security benefit known as “universal credit” and the early years provision free of charge pursuant to the Childcare Act 2006 (c. 21). It provides that where a parent of a child is in receipt of universal credit on or after 1st April 2018 and does not have income in excess of a specified applicable amount in the relevant period, the child is an eligible child for the purposes of early years provision free of charge. The relevant period can, in any particular case, be a single universal assessment period, 2 such periods or 3 such periods – each of which attracts, as a threshold, a different applicable amount of income (based on twelfths of an equivalent yearly income of £15,400).

Regulation 2 also:

- amends the definition of an eligible child to include a child currently, or formerly, looked after by a local authority in England or in Wales
- defines the relevant period (by reference to universal credit assessment periods)
- inserts a new paragraph (3) to define:
 - “earned income” by reference to “earned income” for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013 ([S.I. 2013/376](#))
 - “parent” and to deal with the earned income of a couple where relevant in relation to an income threshold.

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