Childcare Funding (Wales) Act 2019

2019 anaw 1

E+W

An Act of the National Assembly for Wales to make provision for the funding by the Welsh Ministers of childcare for children of working parents; and for connected purposes. [30 January 2019]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

PROSPECTIVE

Provision of funding for childcare

1 Funding of childcare for children of working parents E+W

(1) The Welsh Ministers must provide funding in respect of childcare for qualifying children of working parents.

(2) Regulations must specify the amount of childcare to be secured by virtue of funding provided under subsection (1).

(3) A qualifying child of working parents is a child under compulsory school age—
- (a) who is in Wales;
- (b) who is of an age (or within an age range) specified in regulations;
- (c) who meets any other conditions specified in regulations;
- (d) in respect of whom a declaration has been made, in accordance with regulations, to the effect that the requirements of paragraphs (a), (b) and (c) are or continue to be satisfied.

(4) Conditions specified under subsection (3)(c) in respect of a child may (among other things) relate to primary education (within the meaning of section 2(1)(a) of the Education Act 1996) received by, or made available to, the child.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Childcare Funding (Wales) Act 2019. (See end of Document for details)*

(5) Conditions specified under subsection (3)(c) in respect of a child may also relate to a parent of the child, or a partner of a parent of the child, including (among other things) to paid work carried out by a parent or a partner.

(6) Provision made under subsection (3)(d) in respect of a declaration may (among other things) include provision about when a declaration is to be made, the duration of a declaration, and conditions that are to be met by a person making a declaration.

(7) Regulations may make provision, for the purposes of this section, about—
- (a) circumstances in which a child is, or is not, to be regarded as being in Wales;
- (b) circumstances in which a person is, or is not, to be regarded as another person's partner;
- (c) circumstances in which a person is, or is not, to be treated as carrying out paid work.

(8) For the purposes of this section, "parent", in relation to a child, includes—
- (a) any individual who has parental responsibility (within the meaning of the Children Act 1989 (c. 41)) for the child;
- (b) any individual who has care of the child.

(9) References in this section to regulations are to regulations made by the Welsh Ministers.

PROSPECTIVE

Power to make regulations in respect of childcare funding

2 Power to make provision about administration etc. of funding E+W

(1) The Welsh Ministers may by regulations make provision about the administration and operation of any arrangements made by the Welsh Ministers for the purposes of section 1.

(2) The provision which may be made by the regulations includes (among other things) provision within sections 3 to 7.

(3) References in those sections to "the regulations" are references to regulations under this section.

PROSPECTIVE

Provision for disclosure of information

3 Requirement for parents etc. to provide information E+W

(1) The regulations may make provision requiring a person to provide documents or information specified in the regulations, or of a description specified in the regulations, to the Welsh Ministers or to a person providing services to the Welsh Ministers.

(2) But a requirement may not be imposed on a person by virtue of this section unless the person has made, or is making, a declaration under section 1(3)(d).

(3) The regulations may make provision for a penalty to be imposed on a person who provides false or misleading information in connection with a requirement imposed by virtue of this section.

(4) In subsection (3) "false or misleading" means false or misleading in a material particular.

(5) But a person is not liable to a penalty by virtue of this section in respect of anything if the person has been convicted of an offence in relation to it.

(6) The maximum amount of any penalty that may be specified in or determined in accordance with the regulations by virtue of subsection (3) is £3,000.

4 Provision of information by third parties E+W

(1) The regulations may permit the Commissioners for Her Majesty's Revenue and Customs, or a person providing services to the Commissioners, to provide qualifying information to the Welsh Ministers or to a person providing services to the Welsh Ministers.

(2) The regulations may also permit a government department or a Minister of the Crown, or a person providing services to a government department or a Minister of the Crown, to provide qualifying information to the Welsh Ministers or to a person providing services to the Welsh Ministers.

(3) The regulations may permit or require a local authority, or a person providing services to a local authority, to provide qualifying information to the Welsh Ministers, or to a person providing services to the Welsh Ministers.

(4) "Qualifying information" means information that is specified in the regulations or that is of a description specified in the regulations; but information or a description of information may be so specified only if the Welsh Ministers consider it appropriate to do so for the purposes of determinations as to eligibility for funding under section 1.

(5) Provision for the disclosure of information held by—

(a) the Commissioners for Her Majesty's Revenue and Customs;

(b) a Minister of the Crown;

(c) a government department;

(d) a person providing services to a person mentioned in paragraph (a), (b) or (c),

may be made in the regulations only if the appropriate Minister has consented to the provision.

(6) The appropriate Minister is—

(a) in relation to the Commissioners for Her Majesty's Revenue and Customs, the Treasury;

(b) in relation to a Minister of the Crown or a government department, the Secretary of State.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Childcare Funding (Wales) Act 2019. (See end of Document for details)*

5 Onward disclosure of information disclosed by virtue of section 3 or 4 E+W

(1) The regulations may make provision for the onward disclosure of information that has been disclosed by virtue of section 3 or 4.

(2) But subsection (3) applies in the case of information disclosed in accordance with provision to which the appropriate Minister has consented under section 4(5).

(3) The regulations may make provision for the onward disclosure of the information only if the appropriate Minister (within the meaning of section 4) has consented to the provision for onward disclosure.

(4) The regulations may include provision creating criminal offences in connection with the onward disclosure of information that relates to a particular person.

(5) If the regulations create a criminal offence relating to the onward disclosure of information, provision made for any penalty of imprisonment on conviction on indictment may not specify a term of imprisonment exceeding two years (whether or not accompanied by a fine).

PROSPECTIVE

Provision for reviews and appeals

6 Reviews of determinations and appeals to the First-tier Tribunal E+W

(1) The regulations may make provision for reviews of, or appeals to the First-tier Tribunal against, determinations as to eligibility for funding under section 1.

(2) Where provision is made by virtue of section 3 for the imposition of financial penalties, the regulations must include provision enabling a person on whom a financial penalty is imposed—

(a) to require a review of the imposition of the penalty or its amount;

(b) to appeal to the First-tier Tribunal against the imposition of the penalty or its amount.

PROSPECTIVE

Provision for functions to be exercised by local authorities

7 Power to confer functions on local authorities E+W

(1) The regulations may confer powers or impose obligations upon a local authority in connection with funding under section 1.

(2) The regulations may require a local authority, when exercising a power or complying with an obligation, to have regard to any guidance issued by the Welsh Ministers under the regulations.

PROSPECTIVE

Duty to report on effect of Act

8 Duty to prepare and publish report on the effect of this Act E+W

(1) As soon as practicable after the end of the five year period, the Welsh Ministers must prepare and publish a report on the effect of this Act, and on the operation of any arrangements made for the purposes of section 1.

(2) The five year period, for the purposes of this section, is the period of five years beginning with the day on which section 1 comes into force.

General

PROSPECTIVE

9 Consequential amendment to the Commissioners for Revenue and Customs Act 2005 E+W

In section 18 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (duty of confidentiality), in subsection (2), after paragraph (i) insert—

"(ia) which is made to the Welsh Ministers, or to a person providing services to the Welsh Ministers, by virtue of regulations made under the Childcare Funding (Wales) Act 2019,".

PROSPECTIVE

10 Meaning of "local authority" E+W

In this Act, "local authority" means a council for a county or county borough in Wales.

PROSPECTIVE

11 Power to change amount of financial penalty for provision of false or misleading information E+W

Regulations made by the Welsh Ministers under this section may substitute a different amount for the amount for the time being specified in section 3(6).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Childcare Funding (Wales) Act 2019. (See end of Document for details)*

PROSPECTIVE

12 Supplementary provision about regulations under this Act E+W

(1) Any power to make regulations under this Act is exercisable by statutory instrument, and includes power to—

(a) confer a discretion on any person,

(b) make different provision for different purposes or areas, and

(c) make consequential, incidental, supplementary, transitory, transitional or saving provision.

(2) A statutory instrument containing regulations under this Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

13 Coming into force E+W

(1) This section and section 14 come into force on the day after the day on which this Act receives Royal Assent.

(2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.

(3) An order under subsection (2) may—

(a) appoint different days for different purposes or areas;

(b) make transitory, transitional or saving provision in connection with the coming into force of a provision of this Act.

14 Short title E+W

The short title of this Act is the Childcare Funding (Wales) Act 2019.

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
There are currently no known outstanding effects for the Childcare Funding (Wales) Act 2019.