



Childcare Act 2016

2016 CHAPTER 5

Availability of free childcare

2 Discharging the section 1(1) duty

- (1) The Secretary of State may make regulations for the purpose of discharging the duty imposed by section 1(1) (“extended entitlement regulations”).
- (2) Extended entitlement regulations may (amongst other things)—
 - (a) require an English local authority to secure that childcare of such a description as may be specified is made available free of charge for children in their area who are qualifying children of working parents;
 - (b) make provision about how much childcare is to be so made available for each child, and about the times at which, and periods over which, that childcare is to be made available;
 - (c) make provision about the terms of any arrangements made between English local authorities and providers or arrangers of childcare for the purposes of meeting any requirement imposed under paragraph (a) or (b);
 - (d) impose obligations or confer powers on the Commissioners for Her Majesty's Revenue and Customs;
 - (e) make provision requiring information or documents to be provided by a person to the Secretary of State, the Commissioners for Her Majesty's Revenue and Customs or an English local authority;
 - (f) make provision for the purpose of enabling any person to check whether a child is a qualifying child of working parents;
 - (g) for that purpose, make provision about the disclosure of information held by a Minister of the Crown, the Commissioners for Her Majesty's Revenue and Customs or an English local authority;
 - (h) create criminal offences in connection with the onward disclosure of information obtained under paragraph (g) where that information relates to a particular person and is not disclosed in a way authorised by or specified in the regulations;

Changes to legislation: There are currently no known outstanding effects for the Childcare Act 2016, Section 2. (See end of Document for details)

- (i) make provision for reviews of, or appeals to the First-tier Tribunal against, determinations relating to a child's eligibility for childcare under section 1;
 - (j) make provision for a person specified in the regulations to impose financial penalties on persons in connection with—
 - (i) false or misleading information provided, or statements made or provided, in connection with a determination of a child's eligibility for childcare under section 1, or
 - (ii) dishonest conduct in connection with the process of making such a determination;
 - (k) require English local authorities, when discharging their duties under the regulations, to have regard to any guidance given from time to time by the Secretary of State.
- (3) Extended entitlement regulations which impose a duty, or confer a power, on the Commissioners for Her Majesty's Revenue and Customs, or authorise disclosure of information held by the Commissioners, may only be made with the consent of the Treasury.
- (4) In relation to a criminal offence created by virtue of subsection (2)(h), extended entitlement regulations may not provide for a penalty of imprisonment on conviction on indictment greater than imprisonment for a term not exceeding two years (whether or not accompanied by a fine).
- (5) If provision is made by virtue of subsection (2)(j)—
- (a) the maximum amount of any penalty that may be specified in, or determined in accordance with, the regulations is £3,000;
 - (b) the regulations must include provision enabling a person on whom a financial penalty is imposed—
 - (i) to require a review of the imposition of the penalty or its amount by the person who imposed the penalty;
 - (ii) to appeal against the imposition of the penalty or its amount to the First-tier Tribunal.
- (6) The Secretary of State may by regulations substitute a different amount for the amount for the time being specified in subsection (5)(a).
- (7) In section 15 of the Childcare Act 2006 (powers of Secretary of State to secure proper performance of English local authorities' powers and duties under Part 1 of that Act) references to Part 1 of that Act are to be read as including a reference to section 1 and this section.
- (8) In this section—
- “childcare” has the meaning given by section 18 of the Childcare Act 2006;
 - “English local authority” means—
 - (a) a county council in England;
 - (b) a metropolitan district council;
 - (c) a non-metropolitan district council for an area for which there is no county council;
 - (d) a London borough council;
 - (e) the Common Council of the City of London (in their capacity as a local authority);
 - (f) the Council of the Isles of Scilly;

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“parent” has the same meaning as in section 1;
“qualifying child of working parents” has the meaning given by section 1(2).

Commencement Information

II S. 2 in force at 3.11.2016 by S.I. 2016/1055, reg. 2(b)

Changes to legislation:

There are currently no known outstanding effects for the Childcare Act 2016, Section 2.