

This Statutory Instrument corrects errors in [S.I. 2020/1515](#) and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2021 No. 674

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Childcare (Early Years Provision Free of Charge)
(Extended Entitlement) (Amendment) Regulations 2021**

<i>Made</i>	- - - -	<i>7th June 2021</i>
<i>Laid before Parliament</i>		<i>9th June 2021</i>
<i>Coming into force</i>	- -	<i>1st July 2021</i>

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

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

Citation, commencement, extent and application

1. These Regulations may be cited as the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2021 and come into force on 1st July 2021.
2. These Regulations extend to England and Wales.
3. These Regulations apply in relation to England only.

Amendment of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016

4. The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016⁽²⁾ are amended as follows.
5. In regulation 2 (interpretation), after the definition of “paid work” insert—
““prescribed state” means an EEA state or Switzerland.”
6. In regulation 5 (the requirement to be in qualifying paid work)—

(1) [2016 c. 5](#).

(2) [S.I. 2016/1257](#). Relevant amendments made by [S.I. 2017/1160](#) and [S.I. 2018/794](#). There are other amendments which are not relevant to these Regulations.

- (a) at the end of paragraph (1)(b)(ii), delete “,”;
- (b) in paragraph (1)(c)—
 - (i) after “an employed or” insert “a”;
 - (ii) after “and the person” insert “—”;
 - (iii) in paragraph (ii)—
 - (aa) for “anticipating receiving” substitute “expecting to receive”; and
 - (bb) for “, or” substitute “; or”; and
 - (iv) in paragraph (iv) for “where the person is employed, their employer” substitute “is employed by an employer who”; and
- (c) in paragraph (1A) for “another EEA” substitute “a prescribed”.

7. In regulation 8 (qualifying paid work and work outside role as a foster parent: time off in connection with sickness or parenting), in paragraph (6) for “another EEA” substitute “a prescribed”.

8. In regulation 9 (qualifying paid work and paid work outside role as a foster parent: caring, incapacity for work or limited capability for work), in paragraph (5) for “another EEA” substitute “a prescribed”.

9. In regulation 12 (being in the United Kingdom)—
- (a) in paragraph (1)(b) for “another EEA state” substitute “a prescribed state who is not a person subject to immigration control and”;
 - (b) in paragraph (2)(a)(ii) for “another EEA” substitute “a prescribed”;
 - (c) at the end of paragraph (2)(b) insert—
 - “; or
 - (c) a person who has applied within the applicable time limits for leave to enter or remain under the EU Settlement Scheme⁽³⁾ and the application has not been determined or there is an outstanding appeal.”; and
 - (d) in paragraph (3) after the definition of “double taxation arrangements” insert—
 - “EU Settlement Scheme” means—
 - (i) the residence scheme immigration rules in Appendix EU to the immigration rules except those rules or changes to that appendix which are identified in the immigration rules as not having effect in the residence scheme that operates in connection with the withdrawal of the United Kingdom from the EU; and
 - (ii) any other rules which are identified in the immigration rules as having effect in connection with the withdrawal of the United Kingdom from the EU;”.

(3) Appendix EU to the Immigration Rules, laid before Parliament on 20th July 2018 (CM 9675) <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu>

7th June 2021

Vicky Ford
Parliamentary Under Secretary of State
Department for Education

David Rutley
James Morris

4th June 2021

Two of the Lord's Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 ([S.I. 2016/1257](#)) (“the Regulations”).

Regulations 5, 6(c), 7 and 8 remove the definition of “another EEA state” and add the definition of “prescribed state” as any EEA state or Switzerland which was necessary as a result of the United Kingdom’s (“UK”) exit from the EU.

Regulation 6(a) and (b) corrects errors in the Regulations which were made by The Tax Credits, Childcare Payments and Childcare (Extended Entitlement) (Coronavirus and Miscellaneous Amendments) Regulations 2020 ([S.I. 2020/1515](#)).

Regulation 9 amends regulation 12 of the Regulations, to accommodate the new definition of “prescribed state” and specifies the circumstances in which a person is to be treated as being, or not being, in the UK. This amendment results from the UK’s exit from the EU and provides that only those nationals from the EEA or Switzerland who are not subject to immigration control will be treated as being in the UK.

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

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk.