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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Regulation 1 provides for citation and commencement.

Regulation 2 of these Regulations amends the Childcare Payments (Eligibility) Regulations 2015 (S.I. 2015/448) (“the Eligibility Regulations”), which contain the detailed requirements a person must satisfy in order to be able to receive top-up payments under the Childcare Payments Act 2014 (c. 28) (“the Act”). Regulation 3 of these Regulations amends the Childcare Payments Regulations 2015 (S.I. 2015/522) (“the Payments Regulations”), which provide for the administration of childcare accounts and top-up payments made under the Act.

Regulations 2(2) and 3(2) both 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 European Union.

Regulations 2(3), 2(4), 2(5)(a)(i), 2(5)(b), 2(6)(c), 2(7)(c), 2(8), 2(9) and 2(10) and 3(3), 3(4), 3(5), 3(6), 3(7)(c) and 3(8) all amend provisions to remove references to “another EEA state” and to accommodate the new definition of “prescribed state”.

Regulation 2(5)(a)(ii) amends regulation 7 of the Eligibility Regulations, which specifies the circumstances in which a person is to be treated as being, or not being, in the UK in accordance with section 8 of the Act. This amendment changes who is regarded as meeting the condition due to 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.

Regulation 2(6)(a) and (b) correct minor errors made in S.I. 2020/1515 which amended regulation 9 of the Eligibility Regulations and as a result this SI will be issued free of charge to any known recipient of a hard copy of the instrument.

Regulation 2(7) amends regulation 12 of the Eligibility Regulations to ensure that there is only one version of regulation 12 in those Regulations. Some confusion was inadvertently created by the Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 because it did not extend to Northern Ireland and so its amendments were only applicable in England, Wales and Scotland. This amendment clarifies that those sub-paragraphs do not apply to Northern Ireland.

Regulation 3(7)(b) amends regulation 17, relating to compensatory payments, of the Payments Regulations. This provides that compensation is payable to certain categories of person who have applied for leave to enter or remain in the UK under the EU Settlement Scheme but who are waiting for a decision on their application or appeal. This category of persons will be able to claim compensation in an amount equal to the childcare payment they would have received, if the decision states that they are granted leave to enter or remain. EU Settlement Scheme is defined in regulation 3(7)(d).

A full impact assessment of the effect that the introduction of the childcare payments scheme will have on the costs of business and the voluntary sector was published on 10th June 2014 alongside the draft Childcare Payments Bill and was updated on 20th November 2014. It is available from the gov.uk website at <https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment>. It remains an accurate summary of the impacts that apply to this instrument. An updated impact assessment in relation to the secondary legislation was made on 30th March 2017 and is available on the gov.uk website.