

This Statutory Instrument has been made as a consequence of errors in S.I. 2023/1330 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2024 No. 369

**CHILDCARE, ENGLAND
LOCAL AUTHORITIES, ENGLAND**

**The Childcare (Free of Charge for Working
Parents) (England) (Amendment) Regulations 2024**

<i>Made</i>	- - - -	<i>13th March 2024</i>
<i>Laid before Parliament</i>		<i>15th March 2024</i>
<i>Coming into force</i>	- -	<i>6th April 2024</i>

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

Citation, commencement and extent

1. These Regulations—
 - (a) may be cited as the Childcare (Free of Charge for Working Parents) (England) (Amendment) Regulations 2024,
 - (b) come into force on 6th April 2024, and
 - (c) extend to England and Wales.

Amendment of the Childcare (Free of Charge for Working Parents) (England) Regulations 2022

- 2.—(1) The Childcare (Free of Charge for Working Parents) (England) Regulations 2022⁽²⁾ are amended in accordance with paragraphs (2) to (5).
- (2) In regulation 16(3) (qualifying paid work requirement: employee)—
 - (a) in sub-paragraph (a)(i), after “foster parent,” insert “or”;
 - (b) for sub-paragraph (a)(ii) to (iv), substitute—

(1) 2016 c. 5.
(2) S.I. 2022/1134, amended by S.I. 2023/276 and 1330.

- “(ii) on specified leave other than leave of the kind mentioned in sub-paragraph (b);”;
- (c) for sub-paragraph (b), substitute—
 - “(b) in the case of a person on specified leave that—
 - (i) is not specified leave of the kind mentioned in sub-paragraph (a)(vi), (a)(vii), (b)(iv) or (b)(vii) of the definition in paragraph (4), and
 - (ii) was started because of the birth or adoption of a child in respect of whom a declaration is being made,the period of 31 days ending with the day before the day on which the person returns to work.”;
- (d) omit sub-paragraph (c).
- (3) After regulation 16(3), insert—
 - “(3A) In the case of a person in an EEA State or Switzerland, the references in paragraph (3)(a) and (b) to a person on specified leave of a particular kind mean any period the person is, under the law of that EEA State or Switzerland, on leave of a kind substantially similar to that kind of specified leave.”.
- (4) In regulation 16(4), in the definition of “specified leave”, after sub-paragraph (a)(vi), insert—
 - “(vii) carer’s leave;”.
- (5) In regulation 20 (when a declaration may be made)—
 - (a) for sub-paragraph (a), substitute—
 - “(a) in the period of 16 weeks ending with the day before the day on which the child will meet the description in regulation 13 (if known), or”;
 - (b) in sub-paragraph (b)(ii), after “ending” insert “with the day”.

Signed by authority of the Secretary of State for Education

David Johnston
Parliamentary Under-Secretary of State (Minister
for Children, Families and Wellbeing)
Department for Education

13th March 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134) (the “Principal Regulations”).

Regulation 2(2) corrects an error made when the Principal Regulations were amended by the Childcare (Free of Charge for Working Parents) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/1330) (the “Amendment Regulations”). These Regulations are being issued free of charge to all known recipients of the Amendment Regulations.

The effect of the amendments made by regulation 2(2) is that a person does not have to meet the minimum income requirement in regulation 18 of the Principal Regulations during any period the person is on specified leave (as defined in regulation 16(4)), other than leave of the kind mentioned in regulation 16(3)(b). Regulation 16(3)(b) provides that where a person is on certain types of specified leave started because of the birth or adoption of a child in respect of whom a declaration is being made, the person does not have to meet the minimum income requirement during the period of 31 days ending before the day on which the person returns to work. Regulation 2(3) inserts a new paragraph (3A) to regulation 16, so that a person on leave substantially similar to specified leave under the law of an EEA state or Switzerland is subject to the same provision. This replaces existing regulation 16(3)(c), which is omitted.

Regulation 2(4) of these Regulations amends the definition of “specified leave” in regulation 16(4) of the Principal Regulations to add carer’s leave, introduced by the Carer’s Leave Act 2023 (c. 18).

Regulation 2(5) of these Regulations amends regulation 20 of the Principal Regulations, which provides when a declaration may be made by parents seeking a determination of their eligibility for free childcare. The Amendment Regulations provided for a reduced period of 13 weeks applicable to parents of children who would become eligible on or before 31st March or 31st August 2024. Regulation 2(5) restores the previous period of 16 weeks.

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

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