STATUTORY INSTRUMENTS

2015 No. 522

CHILDCARE PAYMENT SCHEME

The Childcare Payments Regulations 2015

Made - - - -	*4th March 2015*
Laid before Parliament	*5th March 2015*
Coming into force - -	*1st June 2015*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations, in exercise of the powers conferred by sections 2(3)(a) and (4), 4(6), 5(3), 15(3), (4) and (5), 17(4), 19(6), 24(1), (3) and (4), 25, 26(1) and (3), 49(6), 62(1), (2), (3) and (5) and 69(3) and (4) of the Childcare Payments Act 2014 [F1].

F1 2014 c. 28.

Citation and commencement

1. These Regulations may be cited as the Childcare Payments Regulations 2015 and come into force on 1st June 2015.

Interpretation

2. In these Regulations—

"the Act" means the Childcare Payments Act 2014, and a reference without more to a numbered section is a reference to the section of the Act bearing that number;

[F2]...

"armed forces independence payment" means an armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 [F3];

"disability living allowance" means disability living allowance under sections 71 to 76 of the Social Security Contributions and Benefits Act 1992 [F4] or sections 71 to 76 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F5];

"disabled child" is to be read in accordance with regulations made under section 14 (qualifying child) [F6];

"personal independence payment" means a personal independence payment under Part 4 of the Welfare Reform Act 2012 [F7] **[**[F8]or Part 5 of the Welfare Reform (Northern Ireland) Order 2015**]**;

[[F9]"prescribed state" means any EEA state or Switzerland;**]**

"relevant maximum" for an entitlement period is to be read in accordance with section 19 (payments into childcare accounts).

F2 Words in reg. 2 omitted (22.7.2021) by virtue of The Childcare Payments (Miscellaneous Amendment) Regulations 2021 (S.I. 2021/781), regs. 1, **3(2)(a)**

F3 S.I. 2011/517, amended by S.I. 2013/436 and S.I. 2014/412; there are other amending instruments but none is relevant.

F4 1992 c. 4. Sections 71 to 76 were amended by section 67 of the Welfare Reform and Pensions Act 1999 (c. 30), **paragraph 145** of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43), **sections 52**, 53 and 60 of, and paragraph 2 of Schedule 7 and paragraph 1 of Schedule 8 to, the Welfare Reform Act 2007 (c. 5), **section 14** of the Welfare Reform Act 2009 (c. 24) and S.I. 2011/2426.

F5 1992 c. 7. Sections 71 to 76 were amended by sections 48, 49 and 54 of, and paragraph 1 of Schedule 8 to, the Welfare Reform Act (Northern Ireland) 2007 (c. 2), **paragraph 39** of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1), **section 13** of the Welfare Reform Act (Northern Ireland) 2010 (c. 13), **S.I.** 1999/3147 (N.I. 11) and S.R. (N.I.) 2011 No. 356.

F6 Regulation 5 of the Childcare Payments (Eligibility) Regulations 2015 (S.I. 2015/448), made under section 14, explains when a disabled child is a qualifying child for the purposes of the Act.

F7 2012 c. 5.

F8 Words in reg. 2 inserted (5.9.2016) by The Childcare Payments (Amendment) Regulations 2016 (S.I. 2016/796), regs. 1, **3**

F9 Words in reg. 2 inserted (22.7.2021) by The Childcare Payments (Miscellaneous Amendment) Regulations 2021 (S.I. 2021/781), regs. 1, **3(2)(b)**

Qualifying childcare: registered or approved childcare

3.—(1) For the purposes of section 2 (qualifying childcare), childcare described in paragraphs (2) to (6) is to be regarded as registered or approved childcare.

(2) Care provided in England for a child—

(a) by a person registered under Part 3 of the Childcare Act 2006 [F10];

(b) by or under the direction of the proprietor of a school as part of the school activities—

(i) out of school hours, where a child has reached compulsory school age; or

(ii) at any time, where a child has not yet reached compulsory school age; or

(c) by a domiciliary care provider registered with the Care Quality Commission in accordance with the requirements of the Health and Social Care Act 2008 [F11].

(3) Care provided in Wales for a child—

(a) by a person registered under Part 2 of the Children and Families (Wales) Measure 2010 [F12];

(b) by a person in circumstances where, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010 [F13], the care would be day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010;

(c) out of school hours, by a school as part of the school activities or by a local authority;

[[F14](d) by a person who is employed or engaged under a contract for services to provide care and support by the provider of a domiciliary support service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;**]**

(e) by a foster parent in relation to a child (other than one whom the foster parent is fostering) in circumstances where the care would be child minding or day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010 but for the fact that the child is over the age of the children to whom that Measure applies; or

(f) by a childcare provider approved in accordance with a scheme made by the National Assembly for Wales or the Welsh Ministers F15 under **[**F16either—

(i) section 12(5) of the Tax Credit Act 2002; or

(ii) section 60 of the Government of Wales Act 2006**]**.

(4) Care provided in Scotland for a child—

(a) by a person in circumstances where the care service provided by the person consists of child minding or of day care of children within the meaning of paragraph 12 or 13 of Schedule 12 to the Public Services Reform (Scotland) Act 2010 F17 and is registered under Part 5 of that Act;

(b) by a local authority in circumstances where the care service provided by the local authority consists of child minding or of day care of children within the meaning of paragraph 12 or 13 of Schedule 12 to the Public Services Reform (Scotland) Act 2010 and is registered under Part 5 of that Act; or

(c) by a childcare agency where the care service consists of or includes supplying, or introducing to persons who use the service, childcarers within the meaning of paragraph 5 of Schedule 12 to the Public Services Reform (Scotland) Act 2010.

(5) Care provided in Northern Ireland for a child—

(a) by a person registered under Part 11 of the Children (Northern Ireland) Order 1995 F18;

(b) out of school hours by a school as part of the school activities; or

(c) by a childcare provider approved in accordance with a scheme under the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006 F19**[**F20; or**]**

[F21(d) by a childcare provider approved by a Health and Social Care Trust in Northern Ireland for the purposes of providing approved home childcare.**]**

[F22(6) Care provided for a child outside the United Kingdom—

(a) where the care is provided by a Ministry of Defence approved childcare provider which is inspected by a person whose functions include regulating the provision of childcare in accordance with the statutory requirements of the Department for Education, or

(b) in any other case, where care is provided within **[**F23a prescribed**]** state by a childcare provider which is approved, regulated or accredited under the legislation of the relevant state, by a person whose functions include regulating the provision of education or childcare.**]**

(7) The following are not registered or approved childcare—

(a) care provided for a child by the child's parent, step-parent or the parent's partner F24;

(b) care provided for a child by a relative of the child, wholly or mainly in the child's home;

(c) care provided by a person with parental responsibility for the child; and

(d) care provided by a person who is a foster parent of the child.

(8) Care is not within paragraph (2)(a) if it is provided in breach of a requirement to register under Part 3 of the Childcare Act 2006.

(9) Care is not within paragraph (5)(a) if it is provided in breach of a requirement to register under Part 11 of the Children (Northern Ireland) Order 1995.

(10) In this regulation—

"compulsory school age" is determined in accordance with section 8 of the Education Act 1996 [F25];

"foster parent" includes, in Scotland, a foster carer or kinship carer as defined by regulation 2 of the Looked After Children (Scotland) Regulations 2009 [F26];

"local authority" means—

(a) in relation to Wales, a county council, a county borough council or a community council;

(b) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 [F27];

[[F28]"Ministry of Defence approved childcare provider" means a childcare provider, outside the United Kingdom, approved by the Ministry of Defence for use by Her Majesty's forces, which has the same meaning as in the Armed Forces Act 2006, and their families, and civil servants employed by the Ministry of Defence and their families;**]**

"proprietor", in relation to a school, means—

(a) the governing body incorporated under section 19 of the Education Act 2002 [F29]; or

(b) if there is no such body, the person or body of persons responsible for the management of the school;

"relative" means grandparent, aunt, uncle, brother or sister, whether of the full blood or half blood or by marriage or civil partnership;

"school"—

(a) in England and Wales, has the same meaning as in the Education Act 1996 [F30];

(b) in Northern Ireland, means a school as defined by article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 [F31].

F10 2006 c. 21.
F11 2008 c. 14.
F12 2010 nawm 1.
F13 S.I. 2010/2839 (W 233).
F14 Reg. 3(3)(d) substituted (6.4.2018) by The Tax Credits and Childcare (Miscellaneous Amendments) Regulations 2018 (S.I. 2018/365), regs. 1, **5(2)**
F15 Section 45(2) of the Government of Wales Act 2006 (c. 32) defines the Welsh Ministers as the First Minister and the Welsh Ministers appointed under section 48 of that Act.
F16 Words in reg. 3(3)(f) substituted (6.4.2020) by The Tax Credits, Child Benefit, Guardians Allowance and Childcare Payments (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/297), regs. 1, **8(2)(a)**
F17 2010 asp 8.
F18 S.I. 1995/755 (N.I. 2).
F19 S.R. 2006 No. 64.
F20 Word in reg. 3(5)(c) inserted (6.4.2020) by The Tax Credits, Child Benefit, Guardians Allowance and Childcare Payments (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/297), regs. 1, **8(2)(b)(i)**
F21 Reg. 3(5)(d) inserted (6.4.2020) by The Tax Credits, Child Benefit, Guardians Allowance and Childcare Payments (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/297), regs. 1, **8(2)(b)(ii)**
F22 Reg. 3(6) substituted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **12(2)(a)**

F23 Words in reg. 3(6)(b) substituted (22.7.2021) by The Childcare Payments (Miscellaneous Amendment) Regulations 2021 (S.I. 2021/781), regs. 1, **3(3)**

F24 Section 71 of the Act provides that partner is to be read in accordance with regulations made under section 3(5). Regulation 3 of S.I. 2015/448, made under section 3(5), explains when two people are regarded as partners for the purposes of the Act.

F25 1996 c. 56; section 8 was amended by section 52 of the Education Act 1997 (c. 44).

F26 S.S.I. 2009/210.

F27 1994 c. 39.

F28 Words in reg. 3(10) inserted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **12(2)(b)**

F29 2002 c. 32. Section 19 was amended, in relation to schools in England, by section 38 of the Education Act 2011 (c. 21) and S.I. 2010/1158.

F30 Section 4, which gives the general meaning of school, was amended by section 51 of, and paragraph 10 of Schedule 7 and paragraph 1 of Schedule 8 to, the Education Act 1997, Part 3 of Schedule 22 to the Education Act 2002, section 95 of the Childcare Act 2006 (c. 21), **paragraph 9** of Schedule 13 to the Education Act 2011 (c. 21) and S.I. 2010/1080.

F31 S.I. 1986/594 (N.I. 3), to which there are amendments not relevant to this regulation.

Entitlement periods

4.—(1) A person's first entitlement period begins on the day on which HMRC confirm that the person is an eligible person for the entitlement period.

(2) Each subsequent entitlement period begins on the day after the previous entitlement period ends.

(3) Each entitlement period begins on the same day of a month except as follows—

(a) if the first entitlement period begins or ends on the 31st day of a month, each subsequent entitlement period shall begin or end on the last day of the month; and

(b) if the first entitlement period begins or ends on the 29th or 30th day of a month, each subsequent entitlement period shall begin or end on the 29th or 30th day of the month, except in February where it begins or ends on the 27th day or, in a leap year, the 28th day.

Variation of entitlement periods

5.—(1) HMRC may vary the length of an entitlement period—

(a) on the opening of a childcare account in relation to a person's first entitlement period;

(b) on the opening of a childcare account for a person's second or subsequent child; [F32]...

(c) in order to align the entitlement periods of two account-holders **[**[F33]; or

(d) in order to align the entitlement period of an account holder ("A") with the declaration period of A's partner under regulation 15 of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016.**]**

[[F34](1A) The length of the variation referred to in paragraph (1) shall not exceed two months.**]**

(2) The relevant maximum for the entitlement period varied under paragraph (1) is determined by the formula—

$$X \times A \div 91$$

where—
X is, in the case of a disabled child, £4,000, or in the case of any other child, £2,000; and