

**2024 No. 527**

**CHILDCARE, ENGLAND**

**LOCAL AUTHORITIES, ENGLAND**

**The Childcare (Free of Charge for Working Parents) (England)  
(Amendment) (No. 2) Regulations 2024**

<i>Made</i> - - - -	<i>17th April 2024</i>
<i>Laid before Parliament</i>	<i>19th April 2024</i>
<i>Coming into force</i> - -	<i>12th May 2024</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(2)(d), (3), (4)(b) and (c), 2(2)(b) and 4(2)(b) of the Childcare Act 2016<sup>(a)</sup>.

**Citation, commencement and extent**

**1.** These Regulations—

- (a) may be cited as the Childcare (Free of Charge for Working Parents) (England) (Amendment) (No. 2) Regulations 2024,
- (b) come into force on 12th May 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<sup>(b)</sup> are amended in accordance with paragraphs (2) to (4).

(2) In regulation 7 (meaning of “employee”)—

(a) in paragraph (1)—

- (i) in sub-paragraph (a), omit “who is not on unpaid leave”;
- (ii) in sub-paragraph (d), for “31 days” to the end, substitute “the applicable period.”.

(b) in paragraph (2)—

(i) before the definition of “office”, insert—

““applicable period” means, in relation to a person (“P”) who expects to become a person mentioned in any of paragraph (1)(a) to (c) on a date in the period specified

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(a) 2016 c. 5.

(b) S.I. 2022/1134, amended by S.I. 2023/276, 1330 and 2024/369.

in the first column of the table, the period specified in the corresponding second column of the table.

<i>P expects to become a person mentioned in any of paragraph (1)(a) to (c) in the period—</i>	<i>Applicable period—</i>
(i) beginning with 1st February and ending with the next 30th April	begins with 1st January immediately preceding the start of the period specified in the first column and ends with the next 30th April
(ii) beginning with 1st May and ending with the next 30th September	begins with 1st April immediately preceding the start of the period specified in the first column and ends with the next 30th September
(iii) beginning with 1st October and ending with the next 31st January	begins with 1st September immediately preceding the start of period specified in the first column and ends with the next 31st January;”;

(3) In regulation 16 (qualifying paid work requirement: employee)—

(a) in paragraph (3)(b), for the words after paragraph (ii), substitute “the applicable period”;

(b) in paragraph (4)—

(i) before the definition of “employment rights enactment”, insert—

““applicable period” means, in relation to a person (“P”) who returns to work from specified leave on a date in the period specified in the first column of the table, the period beginning with the date specified in the corresponding second column of the table and ending with the day before the day on which P returns to work.

<i>P returns to work from specified leave on a date in the period—</i>	<i>Applicable period begins with—</i>
(i) beginning with 1st February and ending with the next 30th April	1st January immediately preceding the start of the period specified in the first column
(ii) beginning with 1st May and ending with the next 30th September	1st April immediately preceding the start of the period specified in the first column
(iii) beginning with 1st October and ending with the next 31st January	1st September immediately preceding the start of the period specified in the first column;”;

(4) In regulation 27 (period of eligibility for childcare), in paragraph (1)—

(a) in sub-paragraph (a), before “after” omit “on or”,

(b) in sub-paragraph (b), 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 Well-being)  
Department for Education

17th April 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”).

The effect of the amendments made by this instrument is to extend the period during which a parent can obtain a determination of their eligibility for free childcare before they start work or return to work after certain types of employment leave.

Regulation 2(2) amends regulation 7 of the Principal Regulations which defines an “employee”. Sub-paragraph (a)(i) removes the requirement for an employee not to be on unpaid leave. Sub-paragraphs (a)(ii) and (b) amend the period during which a person who expects to start work can be treated as an employee for the purpose of the Regulations. Prior to these amendments, a person could be treated as an employee during the period of 31 days before the person expects to start work. That 31-day period is extended, so that in most cases a person can be treated as an employee from whichever of 1st January, 1st April or 1st September immediately precedes the date on which they expect to start work. However, where a person expects to start work in January, April or September they can be treated as an employee from the start of the preceding term.

Regulation 2(3) makes similar changes to regulation 16(3)(b) and (4) of the Principal Regulations, which exempts parents on certain types of statutory employment leave and pay, started because of the birth or adoption of a child in respect of whom a declaration is made, from the minimum income requirement in regulation 18. The amendments extend the previous 31-day period of exemption in the same way as the amendment made by regulation 2(2).

Regulation 2(4) amends regulation 27(1)(a) of the Principal Regulations to provide that a child will be eligible for childcare from whichever of 1st January, 1st April or 1st September is the first date after (instead of ‘on or after’) the day on which a declaration has effect. It also makes a minor drafting change to paragraph (1)(b) of regulation 27.

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](http://www.legislation.gov.uk).

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