EXPLANATORY MEMORANDUM TO

THE CHILDCARE (FREE OF CHARGE FOR WORKING PARENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2025

Year No. 1287

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Olivia Bailey, Parliamentary Under-Secretary of State at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

2.2 Madeleine Percival, Deputy Director for Early Years Entitlements and Markets, at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Robert Bell at the Department for Education can be contacted by email at the following address with any queries regarding the instrument: EY.Stakeholders@education.gov.uk. Alternatively, the Department can be contacted by telephone: 0300 000 2288.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument corrects a drafting error in the Childcare (Miscellaneous Amendments) (Inspection Outcomes) (England) Regulations 2025 (S.I. 2025/1261) (the "principal Regulations") before they come into force. The procedure for free issue will be applied and these Regulations will be issued free of charge to all known recipients of the principal Regulations.

4.2 These Regulations are made solely to correct a drafting error in the principal Regulations. The policy background to the principal Regulations can be found in the explanatory memorandum to that instrument[1].

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

[1] https://www.legislation.gov.uk/uksi/2025/1261/pdfs/uksiem_20251261_en_001.pdf

5. Policy Context

What is being done and why?

5.1 The policy background to the changes made by the principal Regulations is set out in the explanatory memorandum to that instrument. These Regulations are made solely to correct a drafting error in the principal Regulations before they come into force.

6. Legislative and Legal Context

How has the law changed?

6.1 The principal Regulations make amendments to four instruments relating to childcare and early years provision in England, in consequence of changes to the inspection framework of the Office for Standards in Education, Children's Services and Skills (generally known as Ofsted).

6.2 Regulation 5 of the principal Regulations amends the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134) (the "2022 Regulations"), which provide for free childcare for qualifying children of working parents and are made under sections 1 and 2 of the Childcare Act 2016 (c. 5). As well as the changes to inspection outcomes, regulation 5 also makes some minor changes to remove a redundant definition and transitional provision in the 2022 Regulations.

6.3 Regulation 44(3) of the 2022 Regulations provides that when determining the amount of childcare available to a child for the purpose of the local authority's duty to secure that free childcare is available for qualifying children of working parents, account is to be taken of any childcare available under the duty imposed by section 7(1) of the Childcare Act 2006 (c. 21). Sub-paragraphs (a) and (b) of regulation 44(3) made transitional provision requiring account to be taken of particular types of provision under section 7 during the period from 1st April 2024, when the free childcare entitlement for qualifying children of working parents was being expanded in stages. As that expansion was completed on 1st September 2025, the transitional provision is no longer required.

6.4 In error, regulation 5(4) of the principal Regulations omits all of paragraph (3) of regulation 44 of the 2022 Regulations instead of only the transitional provision in sub-paragraphs (a) and (b) of that paragraph. This instrument corrects the error so that only sub-paragraphs (a) and (b) are omitted.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

7.1 No consultation was undertaken in relation to this instrument, which solely corrects an error in the principal Regulations before they come into force.

8. Applicable Guidance

8.1 There is statutory guidance to support local authorities to discharge their duty to secure the free entitlements in their area including the requirement to secure the provision of information, advice and training to providers[2]. Updates to that guidance

[2] Early Education and childcare statutory guidance - https://www.gov.uk/government/publications/early-education-and-childcare--2

to support the implementation of the changes made by the principal Regulations are set out in the explanatory memorandum to that instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because these changes are not expected to have any significant impact on local authorities or early years providers. This instrument is made solely to correct an error in the principal Regulations before they come into force.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to maintain regular, ongoing engagement with local authorities regarding the provision of childcare entitlements in their area.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument corrects a drafting error in regulation 5(4) of the principal Regulations before they come into force. The error was identified and corrected promptly and the procedure for free issue will be applied, so that these Regulations will be issued free of charge to all known recipients of the principal Regulations.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").