STATUTORY INSTRUMENTS

2016 No. 1021

CHILDCARE

PAYMENT SCHEME

The Childcare Payments (Eligibility) (Amendment No. 2) Regulations 2016

Made - - - -	*21st October 2016*
Laid before Parliament	*21st October 2016*
Coming into force - -	*14th November 2016*

The Treasury, in exercise of the powers conferred by sections 9(2) and (3) and 69(2) of the Childcare Payments Act 2014(**a**), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Childcare Payments (Eligibility) (Amendment No. 2) Regulations 2016 and come into force on 14th November 2016.

Amendments to the Childcare Payments (Eligibility) Regulations 2015

2. The Childcare Payments (Eligibility) Regulations 2015(**b**) are amended as follows.

3.—(1) Regulation 9 is amended as follows.

(2) In paragraph (1)—

(a) after "if" insert "the person or any partner hold a National Insurance Number ("NINo") and";

(b) in sub-paragraph (b)(ii) for "relevant threshold" substitute "threshold specified in paragraph (5A)".

(3) After paragraph (1) insert—

"(1A) The requirement to hold a NINo in regulation 9(1) will not apply to a person's partner who is resident and in paid work in another EEA state.".

(4) After paragraph (5) insert—

"(5A) The threshold specified in this paragraph is the product of the calculation—

$$MxW$$

where

(**a**) 2014 c.28.
(**b**) S.I. 2015/448, to which there are amendments not relevant to these Regulations.

M is the minimum weekly income based on the person's age on the previous 6th April of the tax year in which the declaration of eligibility was made; and

W is 52.".

(5) In paragraph (6) for "*M* is the minimum weekly income" substitute "*M* is the minimum weekly income based on the hourly rate applicable to the person at the date of the declaration of eligibility".

4. In regulation 10(5) after "expected income" insert "during any period of 3 months beginning with the date of the declaration of eligibility".

5. For regulation 11(1) substitute—

"(1) A self-employed person does not have to meet the condition in regulation 9(1)(b) where the person makes the first declaration of eligibility within a start-up period."

Guy Opperman
David Evennett

21st October 2016 — Two of the Lords Commissioners for Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Childcare Payments (Eligibility) Regulations 2015 (S.I. 2015/448) ("the 2015 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").

The Regulations have been previously amended by the Childcare Payments (Eligibility) (Amendment) Regulations 2016 (S.I. 2016/793) ("the 2016 Regulations").

Regulation 3(2)(b), (4) and (5) amend regulation 9 of the 2015 Regulations, which provides conditions relating to the requirement to be in qualifying paid work. The requirement to be in qualifying paid work entails calculating what a person's minimum weekly income is. The definition of minimum weekly income was amended by the 2016 Regulations to take account of the hourly rate set out in the National Minimum Wage Regulations 2015 (S.I. 2015/621). As a result it could be unclear which rate to use, where a person has a birthday part way through the period relevant to the declaration of eligibility and therefore the age of the person for the purposes of calculating a person's minimum weekly income.

Regulation 3(2)(a) and (3) also amend regulation 9 of the 2015 Regulations to add a further condition to the requirement to be in qualifying paid work. All persons and their partners whether employed or self-employed must be in possession of a National Insurance Number except in the case of a person's partner who is resident and in paid work in another EEA state.

Regulation 3(4) amends regulation 9 of the 2015 Regulations so as to provide that where a person is self-employed and the relevant threshold applicable to them is based on a year's self-employment, the minimum weekly income applicable to them is based on their age as at the 6th April before the date the declaration of eligibility was made.

Regulation 3(5) amends regulation 9 of the 2015 Regulations so as to provide that in all other cases the minimum weekly income applicable to them is based on their age as at the date of the declaration of eligibility.

Regulation 4 amends regulation 10 of the 2015 Regulations which is concerned with the calculation of a person's expected income. The amendment restricts the assessment of a person's expected income, where they are both employed and self-employed within the same period of time, to a period of 3 months from the date of the declaration of eligibility.

Regulation 5 amends regulation 11 of the 2015 Regulations which is concerned with start-up periods. Where a self-employed person makes their first declaration of eligibility during a start-up

period, which is defined at regulation 11(2) of the 2015 Regulations, they do not have to meet the condition in regulation 9(1)(b) in respect of calculating their expected income.

A full Impact Assessment of the effect that the childcare payments scheme will have on the costs of business and the voluntary sector was published on 10th June 2014 alongside the draft Bill and was updated on 20th November 2014 and 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.

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