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STATUTORY INSTRUMENTS

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**2007 No. 463**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Childcare Act 2006 (Childcare Assessments) Regulations 2007**

<i>Made</i>	- - - -	<i>19th February 2007</i>
<i>Laid before Parliament</i>		<i>27th February 2007</i>
<i>Coming into force</i>	- -	<i>1st April 2007</i>

The Secretary of State for Education and Skills makes the following Regulations in exercise of the powers conferred by sections 11(5) and (6)(a) and 104(2) of the Childcare Act 2006<sup>(1)</sup>:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Childcare Act 2006 (Childcare Assessments) Regulations 2007 and come into force on 1st April 2007.

(2) In these Regulations—

“the Act” means the Childcare Act 2006;

“authority” means an English local authority<sup>(2)</sup>;

“child care element”, in relation to working tax credit, is to be read in accordance with section 12 of the Tax Credits Act 2002<sup>(3)</sup>;

“disabled child” means a child who has a disability for the purposes of the Disability Discrimination Act 1995<sup>(4)</sup>;

“early years childminding” has the same meaning as in section 98(1) of the Act<sup>(5)</sup>;

“free nursery provision” means nursery education—

(a) provided in a maintained school pursuant to the duty imposed on an authority by section 118 of the School Standards and Framework Act 1998<sup>(6)</sup> (duty of LEA to secure

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(1) [2006 c.21](#).

(2) See section 106 of the Childcare Act 2006 for the meaning of “English local authority”.

(3) [2002 c.21](#).

(4) [1995 c.50](#).

(5) See also section 96(4) of the Childcare Act 2006.

(6) [1998 c.31](#). Section 118 is amended by paragraph 30 of Schedule 2 to the Childcare Act 2006.

sufficient nursery education), and in accordance with guidance given by the Secretary of State under that section(7); or

- (b) provided free of charge by any other person in consideration of financial assistance provided by an authority under arrangements made with that person by the authority in pursuance of the duty imposed on the authority by section 118 of the 1998 Act;

“later years childminding” has the same meaning as in section 98(1) of the Act(8);

“nursery education” has the same meaning as in Part 5 of the School Standards and Framework Act 1998;

“parent” includes any person who—

- (a) has parental responsibility for a child, or  
(b) has care of a child;

“session length” means the maximum period of time for which a childcare provider will care for a particular child in a day;

“special educational needs” has the same meaning as in section 312 of the Education Act 1996(9).

- (3) For the purposes of these Regulations, the age ranges of children are—

- (a) children who have not attained the age of 3;  
(b) children of the age of 3 or 4;  
(c) children of the age of 5, 6 or 7;  
(d) children of the age of 8, 9 or 10;  
(e) children of the age of 11, 12, 13 or, subject to paragraph (4), 14; and  
(f) in relation to disabled children only—  
(i) subject to paragraph (4), children of the age of 14, and  
(ii) children of the age of 15, 16 or 17.

- (4) A child is of the age of 14—

- (a) for the purposes of paragraph (3)(e), up until the 1st September next following the date on which he attains the age of 14; and  
(b) for the purposes of paragraph (3)(f), on and after the 1st September next following the date on which he attains the age of 14.

- (5) For the purposes of these Regulations, the types of childcare are—

- (a) childcare which is early years childminding or later years childminding;  
(b) childcare which is provided during the school term before or after school hours only;  
(c) childcare which is provided during school hours during the school term; and  
(d) childcare which is provided outside the school term.

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(7) See the Code of Practice on the Provision of Free Nursery Education Places for Three- and Four-Year-Olds, published in February 2006 (ISBN: 1-84478-671-4). Copies can be downloaded from [www.surestart.gov.uk](http://www.surestart.gov.uk) or obtained from DfES Publications, PO Box 5050, Sherwood Park, Annesley, Nottinghamshire, NG15 0DJ.

(8) See also section 96(8) of the Childcare Act 2006.

(9) 1996 c.56. Section 312 was amended by paragraph 23 of Schedule 7 to the Education Act 1997 (c.44); by paragraph 71 of Schedule 30 to the School Standards and Framework Act 1998 (c.31); by paragraph 56 of the Learning and Skills Act 2000 (c.21) and by paragraph 3 of Schedule 1 to the Education and Inspections Act 2006 (c.40).

## Consultation

2. The following persons and descriptions of persons are prescribed for the purposes of section 11(6)(a) of the Act—

- (a) the Local Safeguarding Children Board**(10)** established for the area of the authority;
- (b) the Secretary of State, in relation to his functions under section 2 of the Employment and Training Act 1973**(11)**;
- (c) the authority's relevant partners within the meaning of section 10(4) of the Children Act 2004**(12)**;
- (d) such—
  - (i) children,
  - (ii) parents,
  - (iii) childcare providers,
  - (iv) employers,
  - (v) governing bodies of maintained schools and proprietors of schools other than maintained schools,
  - (vi) governing bodies of institutions within the further education sector or the higher education sector within the meaning of section 91 of the Further and Higher Education Act 1992**(13)**,
  - (vii) neighbouring authorities, and
  - (viii) organisations representing the interests of persons mentioned in paragraphs (i) to (iv), or other organisations with an interest in the provision of childcare,as the authority consider appropriate.

## Preparation of a childcare assessment

3.—(1) A childcare assessment must be prepared according to the criteria specified in paragraphs (2) and (3).

- (2) The criteria are, in relation to each authority sub-area—
  - (a) the number of free nursery provision places required by parents;
  - (b) the number of free nursery provision places provided.
- (3) The criteria are, in relation to each authority sub-area, each age range of children and each type of childcare—
  - (a) the number of places required by parents;
  - (b) the number of places provided;
  - (c) the number of places required by parents in respect of which the child care element of working tax credit is payable;
  - (d) the number of places provided in respect of which the child care element of working tax credit is payable;
  - (e) the times of day at which childcare is required by parents;

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**(10)** Local Safeguarding Children Boards are established under section 13 of the Children Act 2004 (c.31).

**(11)** 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c.19) and amended by Part 1 of Schedule 7 to the Employment Act 1989 (c.38) and (in relation to Scotland) section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c.19).

**(12)** 2004 c.31.

**(13)** 1992 c.13.

- (f) the times of day at which childcare is provided;
  - (g) the range of session lengths provided;
  - (h) the requirements for specialist care for children with special educational needs and disabled children;
  - (i) the number of places provided by reference to type of special educational need or need for specialist care (in the case of disabled children);
  - (j) the number of places provided but not being used; and
  - (k) the range of charges payable in respect of childcare and parents' ability to pay the charges.
- (4) The authority must make available for comment a draft childcare assessment.
- (5) In this regulation a "sub-area" of an authority is—
- (a) an electoral division or ward of the authority, or
  - (b) such other appropriate geographical division into which the authority have notionally divided their area.

#### **Prescribed matters for the purposes of the childcare assessment**

4. A childcare assessment must deal with the following matters—
- (a) the information obtained by the authority pursuant to regulation 3(2) and (3) expressed in relation to the whole of the area of the authority;
  - (b) a description of the sufficiency (or otherwise) of childcare in the authority's area, described by reference to the following—
    - (i) types of childcare;
    - (ii) age ranges of children;
    - (iii) charges for childcare and parents' ability to pay the charges;
    - (iv) times of day;
    - (v) type of special educational need or need for specialist care (in the case of disabled children); and
    - (vi) location within the authority's area;
  - (c) the authority's estimate of future changes in the supply of, and demand for, childcare in the period covered by the assessment.

#### **Publication of childcare assessment**

5. An authority must publish a childcare assessment by—
- (a) placing it on the authority's website; and
  - (b) making copies available in such—
    - (i) public libraries,
    - (ii) premises of childcare providers,
    - (iii) schools, and
    - (iv) places to which the public have access,as the authority consider appropriate.

19th February 2007

*Beverley Hughes*  
Minister of State  
Department for Education and Skills

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in relation to the assessments of the sufficiency of childcare in their area that an English local authority (“an authority”) must make under section 11 of the Childcare Act 2006 (c.21). “English local authority” is defined in section 106 of that Act.

Regulation 2 lists the persons and descriptions of persons an authority must consult in preparing their childcare assessment. The authority must prepare their childcare assessment in accordance with the criteria set out in regulation 3, namely criteria such as the numbers of free nursery provision places for 3 and 4 year olds required and provided, the number of places in childcare of various descriptions required and provided, times of day childcare is provided and charges made in respect of childcare. The information must be collected in relation to sub-areas of the authority (see regulation 3(5)). The authority must make available for comment a draft of a childcare assessment.

Regulation 4 prescribes the matters that must be dealt with by a childcare assessment. The assessment must give the information collected by the authority pursuant to regulation 3, but in respect of the whole of the area of the authority rather than in relation to sub-areas.

Regulation 5 sets out that the childcare assessment must be published on the local authority’s website and copies made available in public libraries, premises of childcare providers, schools and other places the authority consider appropriate.

A Regulatory Impact Assessment has been carried out for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department for Education and Skills’ website <http://www.dfes.gov.uk/ria>.