
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 7 of the Childcare Act 2006 (“the Act”) places a duty on English local authorities to secure early years provision free of charge in accordance with regulations. These Regulations prescribe early years provision for young children of a prescribed description.

Regulation 2 prescribes that early years provision which an English local authority must secure free of charge is provision provided by an early years provider to whom section 40 of the Act applies. Section 40 sets out those early years providers who are under a duty to provide the Early Years Foundation Stage.

Regulation 3 prescribes the description of children for whom an English local authority must ensure prescribed early years provision is available free of charge. A child must have attained the age of three or, if the child is within section 512ZB(4) of the Education Act 1996 (provision of free school lunches and milk) or is a child looked after by the local authority under section 22 of the Children Act 1989, must have attained the age of two. The regulation sets out the age of children by reference to school term dates.

Regulation 4 sets out the amount of free prescribed early years provision that English local authorities must make available. They must make available no less than 570 hours in a year over no fewer than 38 weeks.

Regulation 5 revokes the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2008 and the Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2010.

An Impact Assessment has been produced for this instrument and can be found, with the Explanatory Memorandum, at www.legislation.gov.uk.