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STATUTORY INSTRUMENTS

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**2018 No. 146**

**The Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2018**

**Amendment of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014**

**2.** In the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014<sup>(1)</sup>, in regulation 1(2) (interpretation)—

(a) in the definition of “eligible child”—

(i) for paragraph (a), substitute—

“(a) whose parent is entitled to any one or more of the following—

(i) child tax credit where that parent is not also entitled to working tax credit under the Tax Credits Act 2002<sup>(2)</sup> and has an annual gross income not exceeding £16,190;

(ii) the guaranteed element of state pension credit under the State Pension Credit Act 2002<sup>(3)</sup>;

(iii) income-based jobseekers’ allowance under the Jobseekers Act 1995<sup>(4)</sup>;

(iv) income-related employment and support allowance under the Welfare Reform Act 2007<sup>(5)</sup>;

(v) income support under the Social Security and Contributions Act 1992<sup>(6)</sup>;

(vi) support under Part VI of the Immigration and Asylum Act 1999<sup>(7)</sup>;

(vii) universal credit where that parent had, in the relevant assessment period, earned income not exceeding the applicable amount;

(viii) working tax credit run-on<sup>(8)</sup>”;

(ii) for paragraph (f), substitute—

“(f) who is—

(i) currently looked after by a local authority in England within the meaning given by section 22(1) of the Children Act 1989<sup>(9)</sup>; or

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(1) S.I. 2014/2147.

(2) 2002 c. 21.

(3) 2002 c. 16.

(4) 1995 c. 18.

(5) 2007 c. 5.

(6) 1992 c. 4.

(7) 1999 c. 33.

(8) Working tax credits are, in certain circumstances, paid for four weeks (“run-on”) following a cessation of employment.

(9) 1989 c. 41.

- (ii) currently looked after by a local authority in Wales within the meaning given by section 74(1) of the Social Services and Well-being (Wales) Act 2014<sup>(10)</sup>”;
- (iii) for paragraph (g), substitute—
  - “(g) who has previously been—
    - (i) looked after by a local authority in England within the meaning given by section 22(1) of the Children Act 1989; or
    - (ii) looked after by a local authority in Wales within the meaning given by section 74(1) of the Social Services and Well-being (Wales) Act 2014,and is no longer so looked after as a result of the making of one of the following orders—
    - (aa) an adoption order within the meaning given by section 46(1) of the Adoption and Children Act 2002<sup>(11)</sup>;
    - (bb) a special guardianship order within the meaning given by section 14A(1) of the Children Act 1989<sup>(12)</sup>;
    - (cc) a child arrangements order within the meaning given by section 8(1) of the Children Act 1989<sup>(13)</sup> which consists of, or includes, arrangements relating to when the child is to live with any person or with whom the child is to live or both of those things;”;
- (b) at the appropriate place in the alphabetical order, insert—

““universal credit” means the benefit payable in accordance with Part 1 of the Welfare Reform Act 2012<sup>(14)</sup>.”;
- (c) after paragraph (2), insert—

“(3) For the purposes of paragraph (a)(vii) of the definition of an eligible child—
  - (a) “earned income” means income for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013<sup>(15)</sup>;
  - (b) the relevant assessment period and the applicable amount are those referred to in paragraphs (4) to (6) as applicable;
  - (c) where the parent is—
    - (i) a member of a couple who have jointly made a claim for, and are entitled to, universal credit; or
    - (ii) a member of a couple but has claimed, and is entitled to, universal credit as a single person,references to applicable amounts in paragraphs (4) to (6) as applicable are to be read as references to the combined income of the couple.

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<sup>(10)</sup> 2014 anaw 4.

<sup>(11)</sup> 2002 c. 38.

<sup>(12)</sup> Section 14A was inserted by section 115 of the Adoption and Children Act 2002 (c. 38).

<sup>(13)</sup> The definition of “child arrangements order” in section 8 was amended by section 12 of the Children and Families Act 2014 (c. 6).

<sup>(14)</sup> 2012 c. 5.

<sup>(15)</sup> S.I. 2013/376.

(4) Except where paragraphs (5) or (6) apply, where the parent had earned income which did not exceed £1,283.34 in the universal credit assessment period<sup>(16)</sup> immediately preceding the date of the request for early years provision (period 1)—

- (a) the relevant assessment period is period 1; and
- (b) the applicable amount is £1,283.34.

(5) This paragraph applies where paragraph (4) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 2) immediately preceding period 1 referred to in that paragraph—

- (a) the relevant assessment period is the sum of period 1 and period 2 (SAP); and
- (b) the applicable amount is £2,556.67.

(6) This paragraph applies where paragraph (5) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 3) immediately preceding period 2 referred to in that paragraph—

- (a) the relevant assessment period is the period made up of SAP and period 3; and
- (b) the applicable amount is £3,850.”.

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<sup>(16)</sup> An assessment period is prescribed by regulation 1(2) of the Universal Credit Regulations 2013 as a period of one month beginning with the first day of entitlement and each subsequent period of one month during which entitlement subsists.