
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace, with modifications, the Childcare (Disqualifications) Regulations 2009. These Regulations also amend the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016.

Part 2 of the Regulations sets out the categories of persons who are disqualified from registration in England as providers of early years or later years childminding or other early years or later years provision under Part 3 of the Childcare Act 2006 (c. 21) (“the 2006 Act”).

Regulation 4 together with Schedule 1 of these Regulations sets out orders and determinations for the care and supervision of children in connection with which a person is disqualified from registration. Regulation 4 together with Schedules 2 and 3, also sets out categories of offences against or involving children or adults in respect of which a person is disqualified from registration. Regulation 4(11) clarifies that disqualification does not apply to applicants who have been the subject of care orders themselves or to foster carers or adoptive parents, with whom a child who is or was subject to a care order, lives, unless the order was made as a result of that applicant’s care of the child.

Disqualification from registration applies to offences committed overseas which are comparable to the offences set out in these Regulations (see regulation 5).

Under these Regulations persons included on the list kept under section 1 of the Protection of Children Act 1999 (c. 14), persons in respect of whom a direction has been made under section 142 of the Education Act 2002 (c. 32) (known as list 99) and persons barred from regulated activity relating to children under section 3(2) of the Safeguarding Vulnerable Groups Act 2006 (c. 47) are disqualified from registration (see regulations 6, 7(1) and (2) and 8).

Regulation 9 provides that a person is disqualified from registration to work on domestic premises, if that person lives with another person who is disqualified under these Regulations or lives in a household in which such a person is employed.

Regulation 10 sets out the circumstances in which disqualification may be waived by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (the “Chief Inspector”). There is no power of waiver by the Chief Inspector where the disqualification arises from inclusion on List 99 or the list kept under section 1 of the Protection of Children Act 1999, being barred from regulated activity relating to children under the Safeguarding Vulnerable Groups Act 2006 or where a court has ordered that a person must not work in contact with children following a conviction for certain offences against children (see regulation 10(1) and 10(4)).

By virtue of regulation 11, a right of appeal lies to the First-tier tribunal in relation to any determination made by the Chief Inspector as to whether to give consent to waive disqualification under regulation 10.

Regulation 12 provides that a person registered under Chapter 3 or 4 of Part 3 of the 2006 Act has a duty to provide information to the Chief Inspector about the details of any order, determination, conviction or other ground for disqualification from registration under these Regulations. That obligation applies to information relating to the registered person and to any person living in the same household as the registered person or employed in that household.

Schedules 1, 2 and 3 have been updated to reflect amendments in legislation to which they relate. In particular, new offences have been added to Schedule 3 (as detailed in the Notifiable Offences list 2017/2018 as per <https://data.gov.uk/dataset/695f6775-3e51-4dd4-911a-19575638384c/home-office-counting-rules-for-recorded-crime>).

Status: This is the original version (as it was originally made).

Part 3 of the Regulations amends the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (the 2016 Regulations) to make further provision about free childcare for young children of working parents in England by extending the entitlement to children placed with foster parents.

Regulation 15 amends regulation 3 of the 2016 Regulations to provide that a child is not a looked after child for the purposes of the 2016 Regulations where that child is placed with a foster parent. This ensures that the child qualifies as a child of working parents for the purposes of section 1(2)(c) of the Childcare Act 2016.

Regulation 17 inserts a new regulation 4A into the 2016 Regulations to specify the conditions relating to the parent, where that parent is a local foster parent, and any partner of the parent of the young child.

Regulations 18 to 24 amend regulations 11 to 16 of the 2016 Regulations to make provision with regards to the declaration which must be made in respect of the young child where the declaration is being made by a foster parent.

Regulation 26 inserts a new regulation 17A into the 2016 Regulations regarding the determination that the responsible local authority must make as to whether the young child meets some of the criteria to be a qualifying child of working parents.

Regulation 27 inserts a new regulation 18ZA into the 2016 Regulations to make it clear that regulations 18 to 32 of the 2016 Regulations only apply to determinations made by the Commissioners under regulation 17 and not to determinations made by the responsible local authority under regulation 17A.