

STATUTORY INSTRUMENTS

2022 No. 1134

The Childcare (Free of Charge for Working Parents) (England) Regulations 2022

PART 3

Determinations as to qualifying children of working parents

Conditions relating to parent and partner of parent

Qualifying paid work requirement: employee

16.—(1) A person who is an employee is in qualifying paid work if the person—

- (a) holds a national insurance number (unless paragraph (2) applies), and
- (b) meets the minimum income requirement in regulation 18 (unless paragraph (3) applies).

(2) Despite paragraph (1)(a), a person is not required to hold a national insurance number if the person is—

- (a) a resident of an EEA State or Switzerland, and
- (b) not an employee in the United Kingdom.

(3) Despite paragraph (1)(b), a person is not required to meet the minimum income requirement during any of the following—

[^{F1}(a) any period the person is—

(i) a foster parent, ^{F2}...][^{F3}or]

[^{F4}(ii) on specified leave other than leave of the kind mentioned in sub-paragraph (b);]

[^{F5}(b) [^{F6}in the case of a person on specified leave that—

- (i) is not specified leave of the kind mentioned in sub-paragraph (a)(vi), (a)(vii), (b)(iv) or (b)(vii) of the definition in paragraph (4), and
- (ii) was started because of the birth or adoption of a child in respect of whom a declaration is being made,

[^{F7}the applicable period].]

^{F8}(c)

[^{F9}(3A) In the case of a person in an EEA State or Switzerland, the references in paragraph (3) (a) and (b) to a person on specified leave of a particular kind mean any period the person is, under the law of that EEA State or Switzerland, on leave of a kind substantially similar to that kind of specified leave.]

(4) In this regulation—

^{F10} ...

[^{F11}“applicable period” means, in relation to a person (“P”) who returns to work from specified leave on a date in the period specified in the first column of the table, the period beginning with the date specified in the corresponding second column of the table and ending with the day before the day on which P returns to work.

<i>P returns to work from specified leave on a date in the period—</i>	<i>Applicable period begins with—</i>
(i) beginning with 1st February and ending with the next 30th April	1st January immediately preceding the start of the period specified in the first column
(ii) beginning with 1st May and ending with the next 30th September	1st April immediately preceding the start of the period specified in the first column
(iii) beginning with 1st October and ending with the next 31st January	1st September immediately preceding the start of the period specified in the first column;]

“employment rights enactment” means any of the following—

- (a) the Employment Rights Act 1996⁽¹⁾;
- (b) the Employment Rights (Northern Ireland) Order 1996⁽²⁾;

“national insurance number” means a national insurance number allocated under any of the following—

- (a) the National Insurance Act 1965⁽³⁾;
- (b) the National Insurance Act (Northern Ireland) 1966⁽⁴⁾;
- (c) the Social Security Act 1975⁽⁵⁾;
- (d) the Social Security (Northern Ireland) Act 1975⁽⁶⁾;

[^{F12}“the Social Security Contributions and Benefits Act” means either of the following—

- (a) the Social Security Contributions and Benefits Act 1992;
- (b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992]

“specified leave” means, in relation to a person, any of the following—

- (a) a period the person is, under an employment rights enactment, absent from work during any of the following—
 - (i) [^{F13}ordinary or additional maternity leave;
 - (ii) ordinary or additional adoption leave;
 - (iii) shared parental leave;
 - (iv) parental leave;
 - (v) paternity leave;
 - (vi) parental bereavement leave;]
 - (vii) [^{F14}carer’s leave;]
- (b) a period the person is, under [^{F15}the Social Security Contributions and Benefits Act], receiving any of the following—

(1) 1996 c. 18.
 (2) S.I. 1996/1919 (N.I. 16).
 (3) 1965 c. 51.
 (4) 1966 c. 6 (N.I.).
 (5) 1975 c. 14.
 (6) 1975 c. 15.

- (i) state maternity allowance;
- (ii) statutory adoption pay;
- (iii) statutory maternity pay;
- (iv) statutory parental bereavement pay;
- (v) statutory paternity pay;
- (vi) statutory shared parental pay;
- (vii) statutory sick pay.]

Textual Amendments

- F1** Reg. 16(3)(a) substituted (30.3.2023) by The Childcare and Inspection of Education, Children's Services and Skills (Fees) (Amendments) Regulations 2023 (S.I. 2023/276), regs. 1(2), **16(a)**
- F2** Word in reg. 16(3)(a)(i) omitted (1.1.2024) by virtue of The Childcare (Free of Charge for Working Parents) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/1330), regs. 1(2), **2(6)(a)(i)(aa)**
- F3** Word in reg. 16(3)(a)(i) inserted (6.4.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment) Regulations 2024 (S.I. 2024/369), regs. 1(b), **2(2)(a)**
- F4** Reg. 16(3)(a)(ii) substituted for reg. 16(3)(a)(ii)-(iv) (6.4.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment) Regulations 2024 (S.I. 2024/369), regs. 1(b), **2(2)(b)**
- F5** Reg. 16(3)(b) substituted (1.1.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/1330), regs. 1(2), **2(6)(a)(ii)**
- F6** Reg. 16(3)(b) substituted (6.4.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment) Regulations 2024 (S.I. 2024/369), regs. 1(b), **2(2)(c)**
- F7** Words in reg. 16(3)(b) substituted (12.5.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment) (No. 2) Regulations 2024 (S.I. 2024/527), regs. 1(b), **2(3)(a)**
- F8** Reg. 16(3)(c) omitted (6.4.2024) by virtue of The Childcare (Free of Charge for Working Parents) (England) (Amendment) Regulations 2024 (S.I. 2024/369), regs. 1(b), **2(2)(d)**
- F9** Reg. 16(3A) inserted (6.4.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment) Regulations 2024 (S.I. 2024/369), regs. 1(b), **2(3)**
- F10** Words in reg. 16(4) omitted (1.1.2024) by virtue of The Childcare (Free of Charge for Working Parents) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/1330), regs. 1(2), **2(6)(b)**
- F11** Words in reg. 16(4) inserted (12.5.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment) (No. 2) Regulations 2024 (S.I. 2024/527), regs. 1(b), **2(3)(b)(i)**
- F12** Words in reg. 16(4) inserted (30.3.2023) by The Childcare and Inspection of Education, Children's Services and Skills (Fees) (Amendments) Regulations 2023 (S.I. 2023/276), regs. 1(2), **16(b)(ii)**
- F13** Words in reg. 16(4) substituted (30.3.2023) by The Childcare and Inspection of Education, Children's Services and Skills (Fees) (Amendments) Regulations 2023 (S.I. 2023/276), regs. 1(2), **16(b)(iii)**
- F14** Words in reg. 16(4) inserted (6.4.2024) by The Childcare (Free of Charge for Working Parents) (England) (Amendment) Regulations 2024 (S.I. 2024/369), regs. 1(b), **2(4)**
- F15** Words in reg. 16(4) substituted (30.3.2023) by The Childcare and Inspection of Education, Children's Services and Skills (Fees) (Amendments) Regulations 2023 (S.I. 2023/276), regs. 1(2), **16(b)(iv)**

Commencement Information

- I1** Reg. 16 in force at 1.12.2022, see **reg. 1(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Childcare (Free of Charge for Working Parents) (England) Regulations 2022, Section 16.