

# Childcare Bill [HL]

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Education, are published separately as HL Bill 9 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Nash has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Childcare Bill [HL] are compatible with the Convention rights.

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**B I L L**

TO

Make provision about free childcare for young children of working parents and about the publication of information about childcare and related matters by local authorities in England.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Availability of free childcare*

**1 Duty to secure 30 hours free childcare available for working parents**

- (1) The Secretary of State must secure that childcare is available free of charge for qualifying children of working parents for, or for a period equivalent to, 30 hours in each of 38 weeks in any year. 5
- (2) “Qualifying child of working parents” means a young child who—
- (a) is under compulsory school age,
  - (b) is in England, and
  - (c) is of a description specified in regulations made by the Secretary of State. 10
- (3) In determining, for the purposes of subsection (1), the amount of childcare that is available—
- (a) account is to be taken of any childcare available under the duty imposed by section 7(1) of the Childcare Act 2006 (duty of English local authorities to secure early years provision free of charge in accordance with regulations), but 15
  - (b) no account is to be taken of childcare available otherwise than by virtue of that duty or the duty imposed by subsection (1).
- (4) The Secretary of State may make regulations for the purpose of discharging the duty imposed by subsection (1). 20
- (5) Regulations under subsection (4) may, for example—

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| (a)  | require or authorise arrangements to be made for persons to make available, or arrange for other persons to make available, specified descriptions of childcare;   |    |
| (b)  | make provision about the terms of those arrangements;  |    |
| (c)  | make provision about the times at which, and periods over which, childcare is to be made available;  | 5  |
| (d)  | specify the rates payable to providers or arrangers of childcare;  |    |
| (e)  | provide for payments to be made by the Secretary of State to parents or other persons;   |    |
| (f)  | impose obligations or confer powers on any public body;  | 10 |
| (g)  | establish a body corporate to carry out functions conferred under or by virtue of the regulations;   |    |
| (h)  | reproduce any provision of the Childcare Payments Act 2014 (with or without modification);   |    |
| (i)  | make provision requiring information or documents to be provided by a person to the Secretary of State or another person;  | 15 |
| (j)  | for the purposes of enabling any person to check whether a child is a qualifying child of working parents, make provision about the disclosure of information held by a Minister of the Crown, the Commissioners for Her Majesty's Revenue and Customs or any other person;      | 20 |
| (k)  | in connection with provision of the kind mentioned in paragraphs (i) and (j), create criminal offences.  |    |
| (6)  | Regulations under subsection (4) which authorise disclosure of information held by the Commissioners for Her Majesty's Revenue and Customs may only be made with the consent of the Treasury.  | 25 |
| (7)  | Regulations under subsection (4) may not, in relation to any criminal offence created by the regulations, provide for a penalty of imprisonment on conviction on indictment greater than imprisonment for a term not exceeding two years (whether or not accompanied by a fine). | 30 |
| (8)  | The Secretary of State must set out in regulations when a year begins for the purposes of determining in relation to a child whether the duty in subsection (1) has been discharged.   |    |
| (9)  | The Secretary of State may by regulations make provision about the circumstances in which a child is, or is not, in England for the purposes of this section.  | 35 |
| (10) | Nothing in this section prevents the Secretary of State discharging the duty in subsection (1) (wholly or in part) by making regulations under Part 1 of the Childcare Act 2006 (general functions of local authorities: England).   |    |
| (11) | Regulations under subsection (2)(c) (or regulations under section 7(1)(b) of the Childcare Act 2006) may frame any part of the description of a child by reference to any characteristics of a parent of the child or a partner of such a parent.                                | 40 |
| (12) | In this section –<br>“childcare” has the meaning given by section 18 of the Childcare Act 2006;<br>“parent”, in relation to a child, includes any individual who –<br>(a) has parental responsibility for the child, or<br>(b) has care of the child;                            | 45 |

“parental responsibility” has the same meaning as in the Children Act 1989;

“young child”: a child is a “young child” during the period—

- (a) beginning with the child’s birth, and
- (b) ending immediately before the 1 September next following the date on which the child attains the age of 5. 5

## 2 Supplementary provision about regulations under section 1

- (1) In this section “regulations” means regulations under section 1.
- (2) Regulations may—
  - (a) confer a discretion on any person; 10
  - (b) make different provision for different purposes;
  - (c) make consequential, incidental, supplemental, transitional or saving provision;
  - (d) amend, repeal or revoke any provision made by or under an Act (whenever passed or made). 15
- (3) Regulations are to be made by statutory instrument.
- (4) A statutory instrument containing regulations that amend or repeal provision made by an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Any other statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament. 20

### *Publication of information*

## 3 Duty to publish information about childcare and related matters

In section 12 of the Childcare Act 2006 (duty to provide information, advice and assistance), after subsection (6) insert— 25

- “(6A) Regulations may require each English local authority to publish information which is of a prescribed description and relates to any of the matters mentioned in paragraphs (a) to (c) of subsection (2).
- (6B) Regulations under subsection (6A) may require information to be published— 30
  - (a) at prescribed intervals;
  - (b) in a prescribed manner.
- (6C) Subsection (3) applies in relation to information prescribed under subsection (6A) as it applies in relation to information prescribed under subsection (2).” 35

### *General*

## 4 Extent

This Act extends to England and Wales only.

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**5 Commencement**

- (1) Section 4, this section and section 6 come into force on the day on which this Act is passed.
- (2) Sections 1 to 3 come into force on such day or days as may be appointed by regulations made by the Secretary of State. 5
- (3) Regulations under subsection (2) may appoint different days for different purposes or different areas.
- (4) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (5) Regulations under this section are to be made by statutory instrument. 10

**6 Short title**

This Act may be cited as the Childcare Act 2015.

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# B I L L

To make provision about free childcare for young children of working parents and about the publication of information about childcare and related matters by local authorities in England.

*Lord Nash*

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