

# Childcare Bill [HL]

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**Before Clause 1**

BARONESS JONES OF WHITCHURCH  
BARONESS PINNOCK  
BARONESS TYLER OF ENFIELD  
LORD TOUHIG

**1** Insert the following new Clause—

**“Funding review**

- (1) Sections 1 to 3 shall not come into force until the Secretary of State has—
  - (a) established an independent review of the free childcare entitlement funding system, including a large-scale analysis of the cost of delivering funded places; and
  - (b) put in place a comprehensive and sustainable funding solution, which takes into account the complete findings of the review under paragraph (a), and which addresses the funding of existing childcare and the additional requirements on childcare providers arising from this Act.
- (2) The review to be established under subsection (1)(a) shall consult local authorities, childcare providers, employers, parents and others with an interest.
- (3) Where the Secretary of State’s funding solution under subsection (1)(b) does not follow the recommendations of the review under subsection (1)(a), the Secretary of State must publish a report outlining the reasoning.
- (4) Any report published under subsection (3) must be laid before each House of Parliament.”

Amendment  
No.

**Clause 1**

LORD TOUHIG  
BARONESS JONES OF WHITCHURCH

- 2 Page 1, line 3, leave out “The Secretary of State” and insert “Every English local authority”

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN

- 3★ Page 1, line 3, after “that” insert “high-quality”

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN  
BARONESS TYLER OF ENFIELD

- 4★ Page 1, line 4, after “working” insert “or homeless”

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN

- 5★ Page 1, line 5, at end insert –

“(1A) For the purposes of subsection (1), “high-quality childcare” means childcare which complies with standards that shall be set out by the Secretary of State in regulations made under subsection (4), which shall require that each child is assigned a key person, whose role is to help ensure that every child’s care is tailored to meet their individual needs and to offer continuity of care and a settled relationship for the child.

(1B) In making regulations which set out the standards to be complied with under subsection (1A), the Secretary of State shall have regard to the guidance on key persons set out in the statutory framework for the early years foundation stage.”

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN  
BARONESS TYLER OF ENFIELD

- 6★ Page 1, line 6, after “working” insert “or homeless”

LORD NASH

- 7 Page 1, line 6, leave out from second “child” to end of line 10 and insert “–

- (a) who is under compulsory school age,
- (b) who is in England,
- (c) who is of a description specified in regulations made by the Secretary of State,
- (d) in respect of whom any conditions relating to a parent of the child, or a partner of a parent of the child, which are specified in such regulations, are met, and
- (e) in respect of whom a declaration has been made, in accordance with such regulations, to the effect that the requirements of paragraphs (a) to (d) are satisfied.”

Amendment  
No.Clause 1 – *continued*

- 8 Page 1, line 10, at end insert –
- “(2A) The conditions mentioned in subsection (2)(d) may, in particular, relate to the paid work undertaken by a parent or partner.
- (2B) For the purposes of subsections (2) and (2A), the Secretary of State may by regulations –
- (a) make provision about when a person is, or is not, to be regarded as another person’s partner;
  - (b) make provision as to what is, or is not, paid work;
  - (c) specify circumstances in which a person is, or is not, to be regarded as in such work;
  - (d) make provision about the form of any declaration, the manner in which it is to be given and the period for which it has effect.”

BARONESS JONES OF WHITCHURCH  
LORD TOUHIG

- 9 Page 1, line 10, at end insert –
- “( ) “Working parents” means –
- (a) parents or a single parent who work a minimum of 8 hours a week each; or
  - (b) parents or a single parent who do not work for a minimum of 8 hours a week each but meet the requirements listed below –
    - (i) a parent on a zero hours or other flexible working contract;
    - (ii) a parent who is not in work but is receiving work-related training;
    - (iii) a parent who is the main carer for a family member;
    - (iv) a parent whose contract has unexpectedly ended through no fault of their own; or
    - (v) a parent who engages regularly in voluntary work.”

BARONESS PINNOCK  
BARONESS TYLER OF ENFIELD

- 10★ Page 1, line 10, at end insert –
- “( ) Regulations under subsection (2)(c) must ensure that the description of “qualifying child of working parents” includes children between the ages of 1 and 2 years.”

BARONESS MASSEY OF DARWEN  
THE EARL OF LISTOWEL

- 11 Page 1, line 18, at end insert –
- “( ) In discharging the duty under subsection (1), the Secretary of State must ensure that in early years care settings –
- (a) all existing requirements for staff-to-child ratios are maintained;
  - (b) all childcare providers have an early years education and childcare qualification at Level 3 or above or are in training to receive such a qualification; and

Amendment  
No.

**Clause 1 – continued**

- (c) at least one member of staff is suitably qualified for the care of disabled children and those with special educational needs.”

LORD NASH

12 Page 1, line 19, leave out subsections (4) to (7)

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN  
BARONESS TYLER OF ENFIELD

13★ Page 2, line 17, after “working” insert “or homeless”

BARONESS JONES OF WHITCHURCH  
LORD TOUHIG

14 Page 2, line 21, leave out paragraph (j)

BARONESS PINNOCK  
BARONESS TYLER OF ENFIELD

15★ Page 2, line 22, at end insert –

- “( ) Regulations making provision of the type described in subsection (5)(c) must ensure that the times available provide sufficient flexibility –
- (a) to parents who work outside the hours of 9am to 5pm, Monday to Friday; and
- (b) to ensure that childcare is available during school holidays within the local authority area of the relevant childcare provider.”

BARONESS JONES OF WHITCHURCH  
LORD TOUHIG

16 Page 2, line 26, leave out subsection (7)

LORD NASH

17 Page 2, line 36, leave out subsections (10) and (11)

**After Clause 1**

LORD NASH

18 Insert the following new Clause –

**“Discharging the section 1(1) duty**

- (1) The Secretary of State may make regulations for the purpose of discharging the duty imposed by section 1(1) (“extended entitlement regulations”).

Amendment  
No.After Clause 1 – *continued*

- (2) Extended entitlement regulations may (amongst other things) –
- 8 (a) require an English local authority to secure that childcare of such a description as may be specified is made available free of charge for children in their area who are qualifying children of working parents;
  - (b) make provision about how much childcare is to be so made available for each child, and about the times at which, and periods over which, that childcare is to be made available;
  - (c) make provision about the terms of any arrangements made between English local authorities and providers or arrangers of childcare for the purposes of meeting any requirement imposed under paragraph (a) or (b);
  - (d) impose obligations or confer powers on the Commissioners for Her Majesty’s Revenue and Customs;
  - (e) make provision requiring information or documents to be provided by a person to the Secretary of State, the Commissioners for Her Majesty’s Revenue and Customs or an English local authority;
  - 23 (f) make provision for the purpose of enabling any person to check whether a child is a qualifying child of working parents;
  - (g) for that purpose, make provision about the disclosure of information held by a Minister of the Crown, the Commissioners for Her Majesty’s Revenue and Customs or an English local authority;
  - (h) create criminal offences in connection with the onward disclosure of information obtained under paragraph (g) where that information relates to a particular person and is not disclosed in a way authorised by or specified in the regulations;
  - (i) make provision for reviews of, or appeals to the First-tier Tribunal against, determinations relating to a child’s eligibility for childcare under section 1;
  - (j) make provision for a person specified in the regulations to impose financial penalties on persons in connection with –
    - (i) false or misleading information provided, or statements made or provided, in connection with a determination of a child’s eligibility for childcare under section 1, or
    - (ii) dishonest conduct in connection with the process of making such a determination;
  - (k) require English local authorities, when discharging their duties under the regulations, to have regard to any guidance given from time to time by the Secretary of State.
- (3) Extended entitlement regulations which impose a duty, or confer a power, on the Commissioners for Her Majesty’s Revenue and Customs, or authorise disclosure of information held by the Commissioners, may only be made with the consent of the Treasury.
- (4) In relation to a criminal offence created by virtue of subsection (2)(h), extended entitlement regulations may not 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).

Amendment  
No.

**After Clause 1 – continued**

- (5) If provision is made by virtue of subsection (2)(j) –
- (a) the maximum amount of any penalty that may be specified in, or determined in accordance with, the regulations is £3,000;
  - (b) the regulations must include provision enabling a person on whom a financial penalty is imposed –
    - (i) to require a review of the imposition of the penalty or its amount by the person who imposed the penalty;
    - (ii) to appeal against the imposition of the penalty or its amount to the First-tier Tribunal.
- (6) The Secretary of State may by regulations substitute a different amount for the amount for the time being specified in subsection (5)(a).
- (7) In section 15 of the Childcare Act 2006 (powers of Secretary of State to secure proper performance of English local authorities’ powers and duties under Part 1 of that Act) references to Part 1 of that Act are to be read as including a reference to section 1 and this section.
- (8) In this section –
- “childcare” has the meaning given by section 18 of the Childcare Act 2006;
  - “English local authority” means –
    - (a) a county council in England;
    - (b) a metropolitan district council;
    - (c) a non-metropolitan district council for an area for which there is no county council;
    - (d) a London borough council;
    - (e) the Common Council of the City of London (in their capacity as a local authority);
    - (f) the Council of the Isles of Scilly;
  - “parent” has the same meaning as in section 1;
  - “qualifying child of working parents” has the meaning given by section 1(2).”

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THE EARL OF LISTOWEL  
BARONESS TYLER OF ENFIELD

[Amendments 19 to 21 are amendments to Amendment 18]

- 19★ Line 8, after “working” insert “or homeless”
- 20★ Line 23, after “working” insert “or homeless”
- 21★ Line 81, after “working” insert “or homeless”

Amendment  
No.

**After Clause 1 – continued**

LORD NASH

22 Insert the following new Clause –

**“Childcare duty: consequential amendments**

- (1) In section 99 of the Childcare Act 2006 (provision of information about young children: England), in subsection (1), omit the “and” at the end of paragraph (aa) and after paragraph (b) insert “and
  - (c) any other person who provides early years provision for the purposes of section 1(1) of the Childcare Act 2015 (Secretary of State’s duty to secure 30 hours free childcare available for working parents),”.
- (2) In Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (financing of maintained schools) –
  - (a) in section 45A (determination of specified budgets of local authority), after subsection (4B) insert –
    - “(4C) For the purposes of this Part, a duty imposed on a local authority in England under section (*Discharging the section 1(1) duty*) of the Childcare Act 2015 (duties in connection with Secretary of State’s duty to secure 30 hours free childcare for working parents) is also to be treated as an education function of the authority.”;
  - (b) in section 47ZA (free of charge early years provision outside a maintained school: budgetary framework: England), in subsection (3), for paragraph (a) (but not the “and” after it) substitute –
    - “(a) for the purpose of the discharge of –
      - (i) the authority’s duty under section 7 of the Childcare Act 2006, or
      - (ii) a duty imposed on the authority under section (*Discharging the section 1(1) duty*) of the Childcare Act 2015,”.

BARONESS TYLER OF ENFIELD  
BARONESS PINNOCK  
THE EARL OF LISTOWEL

23 Insert the following new Clause –

**“Minimum workforce qualifications**

- (1) For the purpose of this section, relevant early years providers are those that are funded to deliver early education or childcare provision free of charge under section 7(1) of the Childcare Act 2006 or section 1(1) of this Act.
- (2) Relevant early years providers must ensure that any person employed to deliver early education or childcare free of charge under section 7(1) of the Childcare Act 2006 or section 1(1) of this Act is qualified to, or working towards, Level 3 or above.
- (3) Relevant early years providers of a prescribed size must designate a member of staff (to be known as the ‘Early Years SEND Coordinator’) with responsibility for co-ordinating provision for children with special educational needs or a disability (or both).

Amendment  
No.

**After Clause 1 – continued**

- (4) Regulations may require relevant early years providers to ensure that Early Years SEND Coordinators have prescribed qualifications or prescribed experience (or both).”

BARONESS PINNOCK  
BARONESS TYLER OF ENFIELD

24★ Insert the following new Clause –

**“Funding of childcare**

For the purposes of discharging the duty imposed by section 1, the Secretary of State must ensure that –

- (a) the level of payment made to any childcare provider by the Secretary of State for the provision of childcare is paid at a rate which ensures that the provider does not have to subsidise the cost of providing free of charge childcare by placing additional charges on other childcare which they provide; and  
(b) particular provision is made for children living in deprived areas.”

25★ Insert the following new Clause –

**“Capacity**

The Secretary of State may provide capital funding to ensure that local authorities and other providers are able to provide the capacity of childcare places required in their area.”

**Clause 2**

LORD NASH

26 Page 3, line 8, at end insert “or (*Discharging the section 1(1) duty*)”

BARONESS JONES OF WHITCHURCH  
LORD TOUHIG

27★ Page 3, line 17, leave out subsections (4) and (5) and insert –

- “( ) A statutory instrument containing regulations under section 1 or section (*Discharging the section 1(1) duty*) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORD NASH

28 Page 3, line 17, leave out from “containing” to “may” in line 18 and insert “(whether alone or with other provision) regulations to which subsection (4A) applies”

29 Page 3, line 19, at end insert –

- “(4A) The regulations mentioned in subsection (4) are –  
(a) the first regulations made under section 1;  
(b) the first regulations made under section (*Discharging the section 1(1) duty*)(1);

**Amendment  
No.**

**Clause 2**—*continued*

- (c) any regulations under section (*Discharging the section 1(1) duty*)(6);
- (d) any other regulations that amend or repeal provision made by an Act.”

**Clause 5**

BARONESS JONES OF WHITCHURCH  
BARONESS PINNOCK  
BARONESS TYLER OF ENFIELD

- 30 Page 4, line 2, at beginning insert “Section (*Funding review*),”
- 31 Page 4, line 4, at beginning insert “Subject to section (*Funding review*),”

**In the Title**

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN  
BARONESS TYLER OF ENFIELD

- 32★ Line 1, after “working” insert “or homeless”





# Childcare Bill [HL]

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LIST OF AMENDMENTS  
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