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STATUTORY INSTRUMENT

**S.I. No. XX of 2019**

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CHILDCARE SUPPORT ACT 2018 (PAYMENT OF FINANCIAL SUPPORT)  
REGULATIONS 2019

CHILDCARE SUPPORT ACT (PAYMENT OF FINANCIAL SUPPORT) REGULATIONS  
2019

I, Katherine Zappone, Minister for Children and Youth Affairs, in the exercise of the powers conferred on me by section 15 of the Childcare Support Act 2018 (No. 11 of 2018), hereby make the following regulations:

*Citation and commencement*

1.(1) These Regulations may be cited as the Childcare Support Act 2018 (Payment of financial support) Regulations 2019.

(2) These Regulations shall come into operation on 28 October 2019.

*Interpretation*

2. In these Regulations —

“Act” means the Childcare Support Act 2018;

“agreement in relation to the provision of childcare services” means an agreement in relation to the provision of childcare services referred to in section 15(1) of the Act between a parent and a childcare services provider or agreed between a body specified in Schedule 2 of the Act and a childcare services provider pursuant to an agreement under section 14 of the Act and in respect of which financial support is payable under section 15 of the Act;

“Childcare Identifier Code Key” means the unique reference number that the scheme administrator provides to a successful applicant for financial support in respect of a child in a determination under section 12 of the Act or provides to a parent or a body specified in Schedule 2 of the Act pursuant to an agreement under section 14 of the Act;

“ECCE” means the Early Childhood Care and Education programme funded by the Department of Children and Youth Affairs;

“information and records relating to the payment of financial support under section 15 of the Act” includes records relating to the attendance of a child;

“*in loco parentis*” means where a person is actively parenting the child on an ongoing basis including meeting the needs and expenses of the child, including circumstances without a formal arrangement approved by the court as well as circumstances where the person has been appointed as a guardian”;

“non-term time week” means the week during which a child is not participating in the ECCE programme, the Early Start programme or school;

“registered hours” means the childcare hours relating to a child who is the subject of a determination under section 12 or the childcare hours relating to a child who is the subject of an agreement under section 14 of the Act, whichever is appropriate, and which are the subject of an agreement between a parent and a childcare services provider or a statutory body and a childcare services provider in relation to the provision of childcare services in respect of which financial support is payable under section 15 of the Act, and which are registered by the childcare services provider on the scheme administrator’s IT system;

“registration” means the registration of a child who is the subject of determination under section 12 or an agreement under section 14 of the Act with a childcare services provider pursuant to an agreement between a parent and a childcare services provider or an agreement between a body specified in Schedule 2 of the Act and a childcare services provider;

"reporting period" means the period specified by the scheme administrator to childcare services providers for the purposes of making reports to the scheme administrator;

“special circumstances” has the meaning specified in Regulation 5(11);

“term time week” means a week during which a child is participating in the ECCE programme, the Early Start programme, or school.

*Conditions and circumstances for the payment of financial support by the scheme administrator*

3.(1) The scheme administrator may arrange to pay financial support under section 15 of the Act to a childcare service which is entered on the register of prescribed early years services established and maintained in accordance with section 58C of the Child Care Act 1991.

(2) The scheme administrator shall arrange to pay financial support under section 15 of the Act to a childcare services provider subject to compliance by the childcare services provider with the conditions under which financial support is to be paid as set out in the agreement applying at that time between the provider and the Minister under section 8 of the Act and these Regulations.

(3) Financial support under section 15 of the Act shall be payable by the scheme administrator only in respect of registered hours.

(4) The payment of financial support by the scheme administrator under section 15 of the Act to a childcare services provider with whom a parent or a statutory body has entered into an arrangement to provide childcare services in respect of a child the subject of an agreement under section 14 shall be subject to the childcare services provider not charging the parent any fee in respect of the childcare hours which are the subject of the agreement.

(5) The payment of financial support to a childcare services provider in respect of a child will commence from the date of the commencement of the provision of childcare services to a child following registration of the child with a childcare services provider using a Childcare Identifier Code Key and where such childcare is the subject of an agreement in relation to the provision of childcare services.

(6) Where a child is the subject of an agreement in relation to the provision of childcare services and a review has been carried out by the scheme administrator under section 17 of the Act and a determination under section 12 previously made by the scheme administrator is altered under section 17(4) of the Act resulting in the amount a parent is qualified to receive being increased, the scheme administrator shall arrange to pay the increase in the financial support with effect from the date of the review decision under section 17(4) of the Act or an earlier date at the discretion of the scheme administrator.

(7) Where an agreement in relation to the provision of childcare services in respect of a child is entered into following a review by the scheme administrator under section 17 of the Act and a determination under section 12 previously made by the scheme administrator is altered under section 17(4) of the Act resulting in the amount a parent is qualified to receive being increased, the scheme administrator shall arrange to pay the increase in the financial support with effect from the date of the commencement of the provision of childcare services to the child by a childcare services provider.

(8) Where a child is the subject of an agreement in relation to the provision of childcare services and a review has been carried out by the scheme administrator under section 17 of the Act and a determination under section 12 previously made by the scheme administrator is altered under section 17(4) resulting in the amount a parent is qualified to receive being reduced or terminated,

following notification to the person who requested the review in accordance with section 17(7), the scheme administrator shall arrange to pay the reduced financial support to the childcare services provider or terminate the financial support not earlier than 20 working days after the giving of such notice.

(9) The childcare services provider shall publish a schedule of fees, in a form and manner specified by the scheme administrator which shall be displayed in the childcare service at all times in an area accessible to parents as well as on any online platform maintained by the childcare services provider for the purpose of advertising its service.

(10) Where a childcare services provider revises his or her fees and where the revised fee relates to an increase in fees payable, the childcare services provider shall give a minimum of 20 working days' notice to the scheme administrator and a parent who is in receipt of financial support in accordance with a determination under section 12 of the Act in a form and manner specified by the scheme administrator.

(11) Where a childcare services provider fails to publish a schedule of fees in accordance with Regulation 3(9) or fails to submit the records specified in Regulations 5(6), 5(7) and 5(9) in accordance with the reporting period specified by the scheme administrator, the scheme administrator may, immediately and without notice, suspend the payment of financial support payable under section 15 of the Act in respect of a child.

(12) Where a childcare services provider fails to submit the records specified in Regulations 5(6), 5(7) and 5(9) in accordance with the reporting period specified by the scheme administrator, the childcare services provider, may, on no more than two occasions which shall not be consecutive, during the period of the agreement between a childcare services provider and the Minister under section 8 of the Act, make a request, in writing or verbally as specified by the scheme administrator, for the continuation of the financial support and the scheme administrator may, at its discretion, arrange to pay financial support in respect of a child in accordance with section 15 of the Act.

(13) Where the scheme administrator continues to pay financial support to a childcare services provider under Regulation 3(12) and the provider fails to submit the records specified in

Regulations 5(6), 5(7) and 5(9) in the following reporting period, the scheme administrator shall suspend the payment of financial support until the outstanding records have been submitted.

(14) The childcare services provider shall, at all times, in an area accessible to parents in the childcare service, display the service calendar in a form and manner specified by the scheme administrator.

(15) Financial support payable by the scheme administrator under section 15 of the Act relating to childcare hours which are the subject of a determination under section 12 of the Act shall be offset in full by a service provider against the fee which is the subject of an agreement with a parent and such fee shall be no greater than the fee published by the service provider pursuant to Regulation 3(9).

(16) Where a parent has failed to provide the required 4 weeks' notice of the cessation of the agreement in accordance with the terms of the agreement in relation to the provision of childcare services and the childcare services provider has requested the continuation of the financial support up to a maximum period of 4 weeks, the scheme administrator may, at its discretion, arrange to pay the financial support for a period which shall not exceed 4 weeks.

(17) The scheme administrator shall not pay financial support under Regulation 3(16) relating to a failure to give 4 weeks' notice of the cessation of an agreement where payment of financial support is made -

(a) in respect of a period of non-attendance by a child for a 4 week period referred to in Regulation 5(10), or

(b) in respect of the non-attendance by a child for a 4 week period forming part of a maximum period of absence which may be approved by the scheme administrator under Regulation 3(18), and

in either case where the period in respect of which payment is made immediately precedes the period in respect of which there was failure to give notice of the cessation of the agreement.

(18) Where it is submitted by a parent in accordance with Regulation 5(8) that special circumstances apply to the attendance of a child who is the subject of a determination under section 12 for hours less than the registered hours or submitted by a parent in accordance with

Regulation 5(10) that special circumstances apply to the non-attendance of a child who is the subject of such an agreement, the continuation of the payment of financial support and the maximum period for which it shall continue shall, subject to the schedule to these Regulations, be at the discretion of the scheme administrator.

(19) The scheme administrator may cease payment of financial support where there is non-attendance by a child, who is the subject of an agreement in relation to the provision of childcare services in accordance with a determination under section 12 of the Act, for a period in excess of 4 weeks and the scheme administrator has determined that special circumstances do not apply to the non-attendance of the child or where no submission was made by a parent under Regulation 5(10) to the scheme administrator in relation to special circumstances.

(20) The scheme administrator may cease payment of financial support where there is continued non-attendance by a child, who is the subject of an agreement in relation to the provision of childcare services in accordance with a determination under section 12 of the Act, for a period in excess of the maximum period of absence for which financial support may be payable by the scheme administrator under paragraph 2 of the schedule to these Regulations.

(21) The scheme administrator may pay financial support based on the average hours attended by a child in the previous 12 weeks where it has determined that special circumstances do not apply to the attendance of a child for hours less than the registered hours relating to a determination under section 12 or where no submission was made by a parent under Regulation 5(8) to the scheme administrator in relation to special circumstances.

(22) Where the scheme administrator pays financial support based on the average hours attended by a child in the previous 12 weeks in accordance with Regulation 3(21), the registered hours may not be increased upwards on foot of a revised agreement in relation to the provision of childcare services for a period of 8 weeks.

(23) Where payment of financial support by the scheme administrator is based on average hours in accordance with Regulation 3(21), a lesser period than permitted in Regulation 3(22), during which registered hours may not be increased upwards, may apply at the discretion of the scheme administrator.

(24) The scheme administrator may pay financial support based on the average hours attended by a child where there is continued attendance of a child for hours less than the registered hours relating to a determination under section 12, for a period in excess of the maximum period for which financial support may be payable by the scheme administrator in accordance with paragraph 1 of the schedule to these Regulations.

(25) Where the scheme administrator determines that attendance records relating to the attendance of a child are not maintained in accordance with Regulation 6(4)(a), the scheme administrator may suspend or withdraw the payment of financial support as it may consider appropriate in the circumstances.

(26) Where attendance records do not record the times of arrival and departure in respect of each day that a child attends a childcare service, the payment of financial support in respect of a child who is the subject of a determination under section 12 of the Act, may be reduced to one hour per day of attendance, where, following a notice given to the childcare services provider, the records continue to be maintained other than in accordance with Regulation 6(4)(a).

(27) The childcare services provider shall maintain any necessary employer's liability insurance and public liability insurance adequate and necessary to operate and deliver the service, to operate its business and cover all liabilities of the childcare services provider arising in relation to the early years' service.

*Conditions and circumstances for the making of payments by a parent to a childcare services provider with whom an agreement is entered*

4.(1) Where a child is the subject of an agreement in relation to the provision of childcare services for childcare hours in excess of the hours for which financial support is payable by the scheme administrator in respect of a child who is the subject of a determination under section 12 of the Act, any fee payable to the childcare services provider in respect of the additional hours shall be payable by the parent directly to the childcare services provider.

(2) The amount payable by a parent to a childcare services provider in respect of a child who is the subject of an agreement in relation to the provision of childcare services shall be no greater than the difference between the fee amount set out in the agreement between the parent and the childcare services provider having regard to the published fee and the financial support payable in accordance with a determination under section 12 of the Act.

(3) The method of payment of any amount due to a childcare services provider in respect of the difference between the fee amount set out in the agreement between the parent and the childcare services provider and the financial support payable in accordance with a determination under

section 12 of the Act, and the manner and means of making any such payment will be a matter for agreement between the childcare services provider and the parent.

*Information and documentation to be provided by parents and childcare services providers to the scheme administrator*

5.(1) The childcare services provider shall, in connection with the payment of financial support under section 15(1) of the Act, provide to the scheme administrator their tax reference number together with their current tax clearance access number verified as compliant.

(2) The childcare services provider shall submit a service calendar annually to the scheme administrator in such form and manner and within such period as may be directed by the scheme administrator indicating the weeks during which the childcare service is open and the hours during which the service operates.

(3) Where a parent enters into an agreement in relation to the provision of childcare services in respect of a child, the childcare services provider shall provide the scheme administrator with the following information in relation to the child:

- (a) child's name;
- (b) child's date of birth,
- (c) Childcare Identifier Code Key,
- (d) the total number of hours per week of childcare to be provided to the child and in respect of which financial support is payable under section 15 of the Act and such childcare hours may be less than the hours specified in a determination under section 12 of the Act or the hours which are the subject of an agreement under section 14 of the Act, distinguishing term-time weeks from other weeks where applicable, and
- (e) the number of weeks of childcare to be provided to the child and the end-date of the provision of childcare, where relevant.

(4) Where revised hours of childcare are the subject of an agreement in relation to the provision of childcare, the childcare services provider shall, immediately following the agreement in relation to revised hours, provide the scheme administrator with details of the revised hours of childcare.

(5) Where a parent notifies a childcare services provider that it wishes to cease the agreement in relation to the provision of childcare services to a child, the childcare services provider shall, before the end of the next reporting period as specified by the scheme administrator following the receipt of such a notification from a parent, provide the scheme administrator with details of the cessation of the childcare agreement including the date of the cessation of the provision of childcare services.

(6) A childcare services provider shall, in connection with the payment of financial support under section 15(1) of the Act and in accordance with weekly reporting requirements, provide the scheme administrator with details relating to a particular child where the hours of attendance of that child, at the end of an 8 week period immediately preceding the end date of the reporting period specified by the scheme administrator, are less than the registered hours relating to a determination under section 12 of the Act or the registered hours relating to an agreement under section 14 of the Act

(7) Where the attendance of a particular child at a childcare services provider continues to be less than the registered hours relating to a determination under section 12 of the Act or the registered hours relating to an agreement under section 14 of the Act for a further period of 4 weeks following the reporting period referred to in Regulation 5(6), the childcare services provider shall submit to the scheme administrator the actual hours of attendance of the child for each week of that 12 week period.

(8) Where it is submitted by a parent that special circumstances apply to the attendance of a child who is the subject of a determination under section 12 for hours less than the registered hours relating to a determination under section 12 of the Act, the parent may submit relevant documentation and information to the scheme administrator in the manner and form specified by the scheme administrator.

(9) A childcare services provider shall in connection with the payment of financial support under section 15(1) of the Act and in accordance with weekly reporting requirements provide the scheme administrator with details relating to a particular child who is the subject of an agreement in relation to the provision of childcare services where the child has not attended the childcare services provider for a period of 4 weeks in the period immediately preceding the end date of the

reporting period specified by the scheme administrator and such information shall include current information relating to the child's attendance at the service.

(10) Where it is submitted by a parent that special circumstances apply to the non-attendance of a child who is the subject of a determination under section 12 of the Act in respect of the 4 week period immediately preceding the end date of the reporting period specified by the scheme administrator or a further period in excess of that 4 week period, the parent may submit relevant documentation and information to the scheme administrator in the manner and form specified by the scheme administrator.

(11) For the purposes of Regulations 5(8) and 5(10), "*special circumstances*" shall be construed in accordance with the Schedule to these Regulations and the maximum period in respect of which the scheme administrator may continue to pay financial support under Regulation 3(18) is also set out in the Schedule.

(12) The childcare services provider shall notify the scheme administrator and a parent who is in receipt of financial support in respect of a child who is the subject of a determination under section 12 of the Act, in the manner and means specified by the scheme administrator, of a proposed increase in fees at least 20 working days before applying any such increase.

(13) The childcare services provider shall, in the form and manner specified by the scheme administrator, submit an annual financial declaration to the scheme administrator, confirming that:

(a) annual accounts have been submitted within the statutory deadlines to the Companies Registration Office or to the Revenue Commissioners, as appropriate in the circumstances;

(b) the financial support payable under section 15 of the Act has been clearly and separately disclosed in the accounts;

(c) the financial support payable under section 15 of the Act has been offset in full in respect of the fee payable by a parent who is in receipt of financial support in relation to a child who is the subject of a determination under section 12 of the Act regarding the hours which are the subject of an agreement in relation to the provision of childcare services having regard to the published fee.

*Form and manner of records to be kept by providers*

6. (1) The childcare services provider shall ensure that all information and records relating to the payment of financial support under section 15 of the Act shall be kept in a form and manner which will enable an authorised officer within the meaning of section 18 of the Act to exercise his/her powers under the Act.

(2) The childcare services provider shall ensure that all information and records relating to the payment of financial support under section 15 of the Act shall be kept in a form and manner which will enable a review under paragraphs (e), (f) and (g) of section 17(2) of the Act to be carried out.

(3) The childcare services provider shall ensure that adequate and complete records are maintained in such form as the scheme administrator may specify relating to records of any amount due to a childcare services provider in respect of additional hours referred to at Regulation 4(1), and shall submit such information to the scheme administrator in the manner and form as requested and within the period specified.

(4) The childcare services provider shall maintain a record of the:

(a) attendance details in respect of each child attending the service which includes the time of arrival and the time of departure on each day of attendance and the person responsible for recording each arrival and departure in accordance with the template appended to the agreement between the Minister and the childcare services provider under section 8 of the Act at the relevant time;

(b) cessation of an agreement between a parent and a childcare services provider in relation to the provision of childcare to a child including the date of cessation;

(c) the continuous absence of a child for a complete week;

(d) the weekly hours of attendance of a child including where the number of hours of attendance are less than registered hours in respect of a child who is the subject of a determination under section 12 of the Act or the registered hours in respect of a child who is the subject of an agreement under section 14 of the Act, and

(e) the continuation of a child who is the subject of a determination under section 12 or an agreement under section 14 of the Act for less hours than the registered hours at the end of a relevant reporting period as specified by the scheme administrator.

(5) All reports, records, accounts and other documentation of the childcare services provider relating to the receipt by the childcare services provider of the financial support paid under section 15 of the Act and the application of that financial support to the fee charged to parents shall be maintained and made available to the scheme administrator for a period of 6 years after the termination of each agreement between the Minister and the childcare services provider under section 8 of the Act.

*Manner in which financial support is to be paid to providers*

7.(1) The Scheme Administrator shall arrange to pay financial support under section 15 of the Act to a childcare services provider in respect of a child who is the subject of an agreement in relation to the provision of childcare services by electronic funds transfer retrospectively on a weekly basis to the designated bank account details provided by the childcare services provider.

(2) The payment of financial support will continue to be made by the scheme administrator until the earlier of:

- (a) the end date of the financial support as specified in a determination of the scheme administrator under section 12 of the Act or the end date of the financial support which is the subject of an agreement under section 14 of the Act;
- (b) a date notified to the scheme administrator by the childcare services provider that the childcare services which are the subject of the agreement in relation to the provision of childcare services will cease;
- (c) the date of the termination of the agreement by the Minister where the childcare services provider has not complied with the terms of the agreement between the childcare services provider and the Minister under section 8 of the Act or these Regulations; or
- (d) a date determined by the scheme administrator following a review under section 17 of the Act which results in the cessation of financial support.

(3) The scheme administrator may, in respect of attendance by a child for part of an hour, round up the hours in respect of which financial support is payable under section 15 of the Act in relation to an agreement for the provision of childcare services to a whole hour of attendance for that day subject to the maximum daily hours of childcare for the child not exceeding the service opening hours rounded to the nearest hour for that day.

(4) The payment of financial support by the scheme administrator under section 15 of the Act in respect of an agreement relating to the provision of childcare services may include hours relating

to the provision of ancillary services inherently connected with the provision of a childcare service to a child.

#### Schedule

- (1) “Special circumstances” for the purposes of under attendance of a child and the corresponding maximum period for which the scheme administrator may continue to pay financial support are:

<b>Qualifying circumstance</b>	<b>Maximum period for which financial support is payable</b>
Attendance at medical or therapeutic appointments by the child, parent or sibling	Maximum of 16 weeks

- (2) “Special circumstances” for the purposes of the non-attendance of a child and the corresponding maximum period (inclusive of the 4 week period referred to in Regulation 3(19)) for which the scheme administrator may continue to pay financial support are:

<b>Qualifying Circumstance</b>	<b>Maximum Absence for which financial support is payable</b>
Immediate family bereavement	6 weeks
Extended travel abroad once a year to the birthplace of the child or either of the child's parents	6 weeks
Family moving into or out of emergency accommodation where the financial support payable is not the subject of an agreement under section 14 of the Act	6 weeks
Child moving into or out of care placement	6 weeks
Prolonged illness (more than 4 weeks), of either the child or a parent	12 weeks

GIVEN under my Official Seal,

(date)

KATHERINE ZAPPONE,

Minister for Children and Youth Affairs.

### **Explanatory Note**

*(This note is not part of the Instrument and does not purport to be a legal interpretation).*

These Regulations are made pursuant to powers conferred on the Minister for Children and Youth Affairs under section 15 of the Childcare Support Act 2018.

These Regulations provide for the particulars relating to the conditions and circumstances for the payment of financial support, the information and documents to be provided by parents and childcare service providers for the purposes of such payments and the manner in which financial support is to be paid by the scheme administrator.

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