



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 27 September 2019  
SP Paper 585  
7th Report, 2019 (Session 5)

**Education and Skills Committee  
Comataidh Foghlam is Sgilean**

**The Provision of Early Learning and  
Childcare (Specified Children)  
(Scotland) Amendment Order 2019  
(Draft)**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

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# Education and Skills Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Skills.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/education-committee.aspx>



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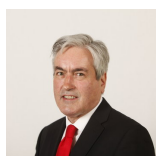
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# Introduction

1. At its meeting on 18 September 2019, the Education and Skills Committee considered a piece of subordinate legislation which is subject to the affirmative procedure. This report summarises the purpose and scrutiny of the instrument as well as confirming the Committee's decision.

# The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 (Draft)

## Instrument overview

2. [The Provision of Early Learning and Childcare \(Specified Children\) \(Scotland\) Amendment Order 2019](#) was laid by the Scottish Government on 27 June 2019.
3. The purpose of the instrument is to amend the Provision of Early Learning and Childcare (Specified Children) Order 2014, as amended ('the 2014 Order') to protect eligibility for 2-year-old children who qualify for access to funded early learning and childcare (ELC) due to their parents' receipt of Working Tax Credits and Child Tax Credits.

## Delegated Powers and Law Reform Committee consideration

4. The Delegated Powers and Law Reform Committee considered the instrument on [3 September 2019](#) and determined that there were no issues within its remit to draw to the attention of the Parliament.

## Education and Skills Committee consideration

5. At its meeting on [18 September 2019](#), the Committee considered the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019.
6. The Minister for Children and Young People, Maree Todd MSP, outlined the purpose of the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019:

- ” Legislation currently specifies that a two-year-old is eligible when their parent receives the maximum child tax credit and maximum working tax credits, and when their annual income does not exceed a threshold that has been set, in United Kingdom, regulations at £6,420.

Due to changes in UK Government policy, it is now technically no longer possible for a parent who is aged 25 or over to meet that criterion. The UK Government has decided to increase the national living wage, but it has also frozen income thresholds for the maximum award of working tax credits and child tax credits at £6,420. The combined effect of the changes is that a parent who is over 25 and who works the minimum hours to qualify for working tax credits—16 hours a week—can now earn no less than about £6,800. Left unchanged, those UK Government policies would result in a significant decrease in the number of two-year-old children who are eligible for funded early learning and childcare in Scotland, despite there being no significant difference in the household circumstances of their families.

Scottish Government and local government agree that we do not wish those children to be unable to access funded early learning and childcare. It is important to be clear that no two-year-old who is currently receiving funded early learning and childcare will be affected by the changes, because once a child has met the eligibility criteria, they remain eligible despite any changes in circumstances.

The purpose of the order is to protect eligibility for two-year-olds whom we would expect to be eligible for funded early learning and childcare. The order will increase the income threshold to £7,320 per year for households that are in receipt of both child tax credit and working tax credits. That will mean that a similar profile of children will remain eligible for the entitlement, thereby ensuring that the two-year-old children who stand to benefit most will continue to have access to high-quality funded early learning and childcare.

Source: Education and Skills Committee 18 September 2019 [Draft], The Minister for Children and Young People (Maree Todd), contrib. 3<sup>1</sup>

7. The Committee asked the Minister about the potential financial impact on local authorities. The Minister replied:

- ” We have worked hard with local authorities to understand the potential financial impact. We expect that it will be manageable within the current ring-fenced ELC settlement, which provides for a higher uptake of two-year-old offer than is currently the case.

We have agreed with our local authority colleagues that we will monitor the impact of this legislative change. If any action is required, both sides are absolutely committed to taking that action. This is a high priority for both central Government and local authorities.

Source: Education and Skills Committee 18 September 2019 [Draft], Maree Todd, contrib. 30<sup>2</sup>

8. The Committee also asked about deferrals and how this interacted with funded childcare. The Minister confirmed she would be meeting the "Give Them Time" campaign and would be happy to discuss any options they want to explore.



## Conclusions

9. Maree Todd MSP, Minister for Children and Young People, moved -  
S5M-18219: That the Education and Skills Committee recommends that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 (SSI 2019/draft) be approved.

The motion was agreed to.

## **Education and Skills Committee**

The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 (Draft), 7th Report, 2019 (Session 5)

- [1] Education and Skills Committee 18 September 2019 [Draft], The Minister for Children and Young People (Maree Todd), contrib. 3, <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=12263&c=2199968>
- [2] Education and Skills Committee 18 September 2019 [Draft], Maree Todd, contrib. 30, <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=12263&c=2199995>

