

**2008 No. 1743**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008**

|                               |         |                        |
|-------------------------------|---------|------------------------|
| <i>Made</i>                   | - - - - | <i>2nd July 2008</i>   |
| <i>Laid before Parliament</i> |         | <i>9th July 2008</i>   |
| <i>Coming into force</i>      | - -     | <i>4th August 2008</i> |

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 46 and 104(2) of the Childcare Act 2006(a):

**PART 1**

**General**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008 and come into force on 4th August 2008.

(2) In these Regulations—

“parent” includes any person who has parental responsibility for a child or has care of a child;  
“relevant local authority”, in relation to early years provision, means the English local authority for the area in which the provision is provided.

**PART 2**

**Exemptions in respect of early years providers**

**Power of the Secretary of State to confer exemptions**

2. The Secretary of State may direct, in respect of a particular early years provider, that the learning and development requirements(b) apply with modifications, or do not apply—

(a) in the circumstances prescribed in regulation 3, and to the extent prescribed in regulation 4; or

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(a) 2006 c.21. See section 98(1) for the definition of “prescribed” and “regulations”.

(b) See section 39(1)(a) of the 2006 Act for the meaning of the “learning and development requirements”. Section 41 of that Act makes further provision about the content of the learning and development requirements.

- (b) in the circumstances prescribed in regulation 5, and to the extent prescribed in regulation 6.

### **Prescribed circumstances relating to principles governing the early years provision**

3. The circumstances referred to in regulation 2(a) are that—
- (a) the early years provider has requested a direction under regulation 2;
  - (b) the majority of the parents of children for whom the early years provision is provided agree that the direction should be requested;
  - (c) the early years provider is unable to secure that the early years provision meets one or more of the learning and development requirements because the early years provision is governed by established principles relating to the learning and development of young children<sup>(a)</sup> which cannot be reconciled with those learning and development requirements; and
  - (d) the early years provider has sought the views of the relevant local authority as to whether the direction should be requested.

### **Extent of a direction: principles governing the early years provision**

- 4.—(1) A direction made under regulation 2(a) may provide that—
- (a) an educational programme applies with such modifications as are specified in the direction; and
  - (b) an early learning goal or an assessment arrangement—
    - (i) applies with such modifications as are specified in the direction, or
    - (ii) does not apply.
- (2) A direction made under regulation 2(a) must specify—
- (a) that the date of the request referred to in regulation 3(a) is the date on which the exemption provided for in the direction takes effect; and
  - (b) the period (not exceeding 2 years) during which that exemption has effect.

### **Prescribed circumstances relating to temporary inability to deliver the learning and development requirements**

5. The circumstances referred to in regulation 2(b) are that—
- (a) the early years provider has requested a direction under regulation 2;
  - (b) the early years provider is, or will be, temporarily unable to secure, from a particular day (“the relevant day”), that the early years provision meets one or more of the learning and development requirements;
  - (c) it appears to the Secretary of State that the early years provider will be able to secure that the early years provision meets the learning and development requirements within a period of twelve months beginning with the relevant day; and
  - (d) the early years provider has sought the views of—
    - (i) the parents of children for whom the early years provision is provided, and
    - (ii) the relevant local authority,as to whether the direction should be requested.

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(a) For the meaning of “young child”, by virtue of section 98(1) of the 2006 Act, see section 19 of that Act.

### **Extent of a direction: temporary inability to deliver the learning and development requirements**

6.—(1) A direction made under regulation 2(b) may provide that any educational programme, early learning goal or assessment arrangement—

- (a) applies with such modifications as are specified in the direction; or
- (b) does not apply.

(2) A direction made under regulation 2(b) must specify—

- (a) that the date of the request referred to in regulation 5(a) is the date on which the exemption provided for in the direction takes effect; and
- (b) the period (not exceeding 12 months) during which that exemption has effect.

## **PART 3**

### **Exemptions in respect of individual children**

#### **Power of early years provider to confer exemptions**

7. An early years provider may determine, in respect of a particular young child, that the learning and development requirements apply with modifications, or do not apply, in the circumstances prescribed in regulation 8, and to the extent prescribed in regulation 9.

#### **Prescribed circumstances for a determination by an early years provider**

8. The circumstances referred to in regulation 7 are that—

- (a) the early years provider has received a written request for a determination from a parent of the child;
- (b) the application specifies any early learning goal, educational programme or assessment arrangement that should apply with modifications, or that should not apply, in respect of that child, and the reasons why;
- (c) the early years provider is satisfied that the parent of the child has religious or philosophical convictions which cannot be reconciled with one or more of the learning and development requirements; and
- (d) the early years provider has sought the views of the relevant local authority as to whether the determination should be made.

#### **Extent of a determination by an early years provider**

9.—(1) A determination made under regulation 7 may provide that—

- (a) an educational programme applies with such modifications as are specified in the determination; and
- (b) an early learning goal or an assessment arrangement—
  - (i) applies with such modifications as are specified in the determination, or
  - (ii) does not apply.

(2) A determination under regulation 7 must specify—

- (a) that the date of the request referred to in regulation 8(a) is the date from which the exemption provided for in the determination takes effect; and
- (b) the period (not exceeding 12 months) during which that exemption has effect.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for exemptions from the learning and development requirements, which are part of the Early Years Foundation Stage.

The learning and development requirements are set out in Section 2 of the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Department for Children, Schools and Families, and are made up of educational programmes, early learning goals and assessment arrangements.

Part 2 of the Regulations provides that the Secretary of State may grant an exemption from the learning and development requirements for a particular early years provider on two different grounds.

Regulations 3 and 4 enable an exemption to be granted, provided that the majority of parents of children receiving the early years provision support an application for exemption, where the principles which govern the early years provision cannot be reconciled with the learning and development requirements. The provider must also have sought the views of the local authority. Regulation 4 provides that the Secretary of State can modify or disapply any of the early learning goals or assessment arrangements, but can only modify an educational programme. The exemption may last for a maximum of 2 years.

Regulations 5 and 6 enable an exemption to be granted where the early years provider is temporarily unable to secure that the early years provision meets the learning and development requirements, but the Secretary of State is satisfied that the provider will be able to do so within a period of 12 months. The early years provider must have sought the views of parents and the local authority. Regulation 6 provides that any of the learning and development requirements may be modified or disapplied. The exemption may last for a maximum of 12 months.

Part 3 of the Regulations provides that exemptions may be granted by early years providers themselves, in relation to particular children, and at the request of a child’s parent. An exemption may be given where a parent’s religious or philosophical convictions cannot be reconciled with aspects of the learning and development requirements. The early years provider must have sought the views of the relevant local authority. Regulation 9 provides that an early learning goal or assessment arrangement may be modified or disapplied for that child, but an educational programme may only be modified. The exemption may last for a maximum of 12 months.

Copies of the “Statutory Framework for the Early Years Foundation Stage” can be obtained from DCSF Publications, PO Box 5050, Sherwood Park, Annesley, Nottingham, NG15 0DJ (telephone number: 0845 6022260). It can also be downloaded from the DCSF website [www.standards.dcsf.gov.uk/eyfs](http://www.standards.dcsf.gov.uk/eyfs)

An Impact Assessment has been produced for the Early Years Foundation Stage and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website [www.opsi.gov.uk](http://www.opsi.gov.uk).

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