
Status: Point in time view as at 01/09/2021.

Changes to legislation: There are currently no known outstanding effects for the The Early Years Foundation Stage (Welfare Requirements) Regulations 2012. (See end of Document for details)

STATUTORY INSTRUMENTS

2012 No. 938

CHILDREN AND YOUNG PERSONS, ENGLAND

The Early Years Foundation Stage (Welfare Requirements) Regulations 2012

| | | |
|-------------------------------|---------|---------------------------|
| <i>Made</i> | - - - - | <i>26th March 2012</i> |
| <i>Laid before Parliament</i> | | <i>27th March 2012</i> |
| <i>Coming into force</i> | - - | <i>1st September 2012</i> |

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 39(1)(b), 43(1) and (3) and 44(1) to (4) of the Childcare Act 2006^{M1}.

In accordance with section 43(2) of that Act, the Secretary of State has consulted Her Majesty's Chief Inspector of Education, Children's Services and Skills and other appropriate persons.

Marginal Citations

M1 2006 c. 21. Section 44(1) was amended by paragraph 41 of Schedule 12 to the [Apprenticeships, Skills, Children and learning Act 2009](#) (c. 22). See section 106 of the Childcare Act 2006 for the definition of “prescribed” and “regulations”.

Citation and commencement

1. These Regulations may be cited as the Early Years Foundation Stage (Welfare Requirements) Regulations 2012 and come into force on 1st September 2012.

Interpretation

2. In these Regulations—

“the Act” means the Childcare Act 2006;

[^{F1}“the Document” means the document entitled “Statutory Framework for the Early Years Foundation Stage” dated 31st March 2021 and published by the Secretary of State on the gov.uk website;]

[^{F2}“registered early years provider” means a person who is registered under Chapter 2 of Part 3 of the Act in the early years register or with an early years childminder agency;]

[^{F3}“relevant person” means—

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- (a) in the case of a person registered in the early years register, the Chief Inspector, and
 - (b) in the case of a person registered with an early years childminder agency, the agency;]
- [^{F4}“the relevant provisions of the Document” means the provisions in Section 3 of the Document that use the word “should”.]

Textual Amendments

- F1** Words in [reg. 2](#) substituted (1.9.2021) by [The Early Years Foundation Stage \(Miscellaneous Amendments\) and Childcare Fees \(Amendment\) Regulations 2021 \(S.I. 2021/432\)](#), regs. 1, **4**
- F2** Words in [reg. 2](#) substituted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **25(b)**
- F3** Words in [reg. 2](#) inserted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **25(c)**
- F4** Words in [reg. 2](#) inserted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(2)(b)**

[^{F5}Review

- 2A.—**(1) The Secretary of State must from time to time—
- (a) carry out a review of the regulatory provision contained in regulations 2 to 6 and in regulation 8A,
 - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 1st January 2021.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a review carried out under this article must, in particular—
- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraphs 1(a) and 1(b),
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business Enterprise and Employment Act 2015 (see section 32 of that Act).]

Textual Amendments

- F5** Reg. 2A substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(3)**

Specification of the welfare requirements

- 3.—**(1) Regulations [^{F67} 3 to 9] specify welfare requirements under section 39(1)(b) of the Act.
- (2) It is directed that the [^{F7}obligatory provisions] of the Document have effect, for the purposes of specifying the welfare requirements under section 39(1)(b) of the Act.

[^{F8}(2A) In this regulation, “the obligatory provisions” means the provisions in Section 3 of the Document that, by virtue of their use of the word “must”, express requirements, except for those contained in paragraphs 3.16, 3.17, 3.18, 3.52, 3.53, 3.77 and 3.78.]

(3) Early years providers to whom section 40 of the Act ^{M2} applies must have regard to the matters in [^{F9}the relevant provisions] of the Document in securing that the early years provision they provide complies with the welfare requirements.

Textual Amendments

- F6** Words in reg. 3(1) substituted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **8(3)**
- F7** Words in reg. 3(2) substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(4)(a)**
- F8** Reg. 3(2A) inserted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(4)(b)**
- F9** Words in reg. 3(3) substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(4)(c)**

Marginal Citations

- M2** Section 40 of the Act imposes a duty on early years providers to comply with the welfare requirements in addition to meeting the learning and development requirements.

[^{F10}Temporary modification of the welfare requirements in the Document

3A.—(1) The welfare requirements prescribed in Section 3 of the Document have effect during the relevant period subject to the modifications set out in this regulation.

(2) The requirements in Section 3 of the Document specified in paragraph (3) are to be treated as discharged if the provider has used its reasonable endeavours to discharge the requirement.

(3) The following requirements are specified for the purposes of paragraph (2)—

- (a) in paragraph 3.23, the requirement for at least half of all other staff (excluding the manager) to hold at least a full and relevant level 2 qualification;
- (b) in paragraphs 3.31, 3.32, 3.34 and 3.36 the requirement for at least half of all other staff (excluding the member of staff who holds a full and relevant level 3 qualification) to hold a full and relevant level 2 qualification;
- (c) in paragraph 3.33, the requirement for at least one other member of staff (excluding the member of staff who holds a suitable level 6 qualification) to hold a full and relevant level 3 qualification;
- (d) in paragraph 3.35, the requirement for at least one other member of staff (excluding the member of staff who holds a suitable level 6 qualification, an instructor, or another suitably qualified overseas trained teacher) to hold a full and relevant level 3 qualification; and
- (e) in paragraph 3.37—
 - (i) the requirement for at least one member of staff to be a school teacher, as defined by section 122 of the Education Act 2002 but only if the requirements in paragraph 3.34 (as modified by sub-paragraph (b)) are satisfied; and
 - (ii) the requirement for at least one other member of staff (excluding the member of staff who is a school teacher, as defined by section 122 of the Education Act 2002) to hold a full and relevant level 3 qualification.

(4) In paragraph 3.25—

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- (a) the words from “All newly qualified entrants” to “in an early years setting.” are disapplied; and
- (b) the requirement for at least one person who has a current paediatric first aid (“PFA”) certificate to be on the premises and available at all times when children are present and to accompany children on outings is to be treated as discharged if the provider has used its best endeavours to discharge the requirement and the conditions in paragraph (5) are satisfied.
- (5) The conditions are that—
- (a) all children being cared for on the premises are two years old or more;
- (b) at least one person who holds a first aid at work certificate or holds an emergency PFA certificate is present on the premises at all times when children are present and accompanies children on outings;
- (c) the provider has undertaken a written risk assessment which considers the likely occurrence of a serious incident taking place taking into account all relevant factors including—
- (i) the number of children on the premises;
- (ii) the needs of the individual children attending the premises;
- (iii) staff to child ratios;
- (iv) the types of activities undertaken with the children on the premises;
- (v) the likely need for first aid;
- (vi) first aider knowledge among staff on the premises; and
- (vii) the mitigations available to reduce the risk of such an incident; and
- (d) following that risk assessment the provider is satisfied that they have taken all reasonable steps to ensure the safety of children in their care.
- (6) The relevant period starts when this regulation comes into force and ends on 25th September 2020.
- (7) ^[F11]Except in relation to the requirement in paragraph (4)(b)^[F11]Subject to paragraph (8)], where on 24th September 2020 a provider complies with the welfare requirements only by virtue of this regulation the provider is to be taken to continue to comply with the welfare requirement so long as—
- (a) the provider does not on or after 25th September 2020 further reduce ^[F12]the level of qualifications held by staff during that period^[F12]compliance with the welfare requirements]; and
- (b) the provider complies with the welfare requirements as set out in the Document on or before the 25th November 2020.]
- ^[F13](8) Paragraph (7) does not apply to a provider at any time when regulation 3B applies to that provider.]

Textual Amendments

F10 Reg. 3A inserted (24.4.2020) by [The Early Years Foundation Stage \(Learning and Development and Welfare Requirements\) \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/444\)](#), regs. 1, 8 (which amendment falls (4.1.2024) by virtue of the revocation of the affecting provision by [S.I. 2023/1338](#), regs. 1(2), 5(a))

F11 Words in [reg. 3A\(7\)](#) substituted (temp.) (26.9.2020 until 31.8.2021) by [The Early Years Foundation Stage \(Learning and Development and Welfare Requirements\) \(Coronavirus\) \(Amendment\) \(No. 2\)](#)

- Regulations 2020 (S.I. 2020/939), regs. 1, **5(2)(a)(i)** (with reg. 3(2)) (which amendment falls (4.1.2024) by virtue of the revocation of the affecting provision by S.I. 2023/1338, regs. 1(2), **5(b)**)
- F12** Words in reg. 3A(7) substituted (temp.) (26.9.2020 until 31.8.2021) by The Early Years Foundation Stage (Learning and Development and Welfare Requirements) (Coronavirus) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/939), regs. 1, **5(2)(a)(ii)** (with reg. 3(2))(which amendment falls (4.1.2024) by virtue of the revocation of the affecting provision by S.I. 2023/1338, regs. 1(2), **5(b)**)
- F13** Reg. 3A(8) inserted (temp.) (26.9.2020 until 31.8.2021) by The Early Years Foundation Stage (Learning and Development and Welfare Requirements) (Coronavirus) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/939), regs. 1, **5(2)(b)** (with reg. 3(2)) (which amendment falls (4.1.2024) by virtue of the revocation of the affecting provision by S.I. 2023/1338, regs. 1(2), **5(b)**)

[^{F14}Further temporary modification of the welfare requirements in the Document

3B.—(1) At any time when paragraph (2) applies in relation to a provider, the welfare requirements prescribed in Section 3 of the Document have effect subject to the modifications set out in regulation 3A(2) to (5).

(2) This paragraph applies when it is not reasonably practicable for a provider to comply with the prescribed requirements referred to in paragraph (1) as a result of—

- (a) restrictions or requirements imposed by regulations made under the Public Health (Control of Disease) Act 1984 for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- (b) prohibitions, requirements or restrictions imposed by a direction made under any regulations referred to in sub-paragraph (a); or
- (c) a direction made under schedule 16 or 17 to the Coronavirus Act 2020.

(3) Paragraph (4) applies during the 14 day period beginning with the first day after the date on which all regulations or directions falling under paragraph (2) cease to apply to a provider.

(4) Where this paragraph applies, the welfare requirements specified in regulation 3A(3) and (4) (b) are to be treated as discharged provided that—

- (a) in the period immediately preceding that 14 day period, the provider was treated as having discharged those requirements by virtue of paragraph (1); and
- (b) during the 14 day period—
 - (i) in relation to the requirements specified in regulation 3A(3), the provider continues to use reasonable endeavours to discharge those requirements; and
 - (ii) in relation to the requirement specified in regulation 3A(4)(b), the provider continues to use its best endeavours to discharge the requirement and the conditions in regulation 3A(5) are satisfied.]

Textual Amendments

- F14** Reg. 3B inserted (temp.) (26.9.2020 until 31.8.2021) by The Early Years Foundation Stage (Learning and Development and Welfare Requirements) (Coronavirus) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/939), regs. 1, **5(3)** (with reg. 3(2)) (which amendment falls (4.1.2024) by virtue of the revocation of the affecting provision by S.I. 2023/1338, regs. 1(2), **5(b)**)

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Requirement on the Chief Inspector [^{F15}and early years childminder agencies]

4. The Chief Inspector [^{F16}and early years childminder agencies] must have regard to the welfare requirements specified in regulation 3 and the matters in [^{F17}the relevant provisions] of the Document in exercising functions under Part 3 of the Act.

Textual Amendments

- F15** Words in reg. 4 heading inserted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **26(b)**
- F16** Words in reg. 4 inserted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **26(a)**
- F17** Words in reg. 4 substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(5)**

Matters to be considered by the Chief Inspector

5.—^{F18}(1) Any allegation that an early years provider has—

- (a) failed to meet the welfare requirements; or
- (b) failed to have regard to the matters in [^{F19}the relevant provisions] of the Document

may be taken into account by the Chief Inspector in the exercise of functions under Part 3 of the Act.

^{F20}(2) Any allegation that an early years childminder agency has failed to meet the requirement in regulation 4 may be taken into account by the Chief Inspector in the exercise of functions under Part 3 of the Act.]

Textual Amendments

- F18** Reg. 5(1): reg. 5 renumbered as reg. 5(1) (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **27(a)**
- F19** Words in reg. 5(1)(b) substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(6)**
- F20** Reg. 5(2) inserted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **27(b)**

^{F21}Matters to be considered by early years childminder agencies

5A. Any allegation that an early years provider has—

- (a) failed to meet the welfare requirements; or
- (b) failed to have regard to the matters in [^{F22}the relevant provisions] of the Document,

may be taken into account by an early years childminder agency in the exercise of functions under Part 3 of the Act.]

Textual Amendments

- F21** Reg. 5A inserted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **28**

F22 Words in reg. 5A(b) substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(7)**

[^{F23}Matters to be considered by early years childminder agencies: effect of temporary closure directions

5B.—(1) In relation to a period during which a temporary closure direction has effect in relation to an early years provider, an early years childminder agency must, in exercising functions under Part 3 of the Act, take account of the direction in dealing with any allegation under article 6A (a) or (b).

(2) In paragraph (1) “temporary closure direction” means a direction issued under section 37(1) and paragraph 3(2)(b) of Schedule 16 to the Coronavirus Act 2020.]

Textual Amendments

F23 [Reg. 5B](#) inserted (24.4.2020) by [The Early Years Foundation Stage \(Learning and Development and Welfare Requirements\) \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/444\)](#), regs. 1, **9** (which amendment falls (4.1.2024) by virtue of the revocation of the affecting provision by [S.I. 2023/1338](#), regs. 1(2), **5(a)**)

Proceedings under Part 3 of the Act

6.—[^{F24}(1)] Any allegation that an early years provider has—

(a) failed to meet the welfare requirements; or

(b) failed to have regard to the matters in [^{F25}the relevant provisions] of the Document

may be taken into account in any proceedings under Part 3 of the Act.

[^{F26}(2) Any allegation that an early years childminder agency has failed to meet the requirement in regulation 4 may be taken into account in any proceedings under Part 3 of the Act.]

Textual Amendments

F24 Reg. 6(1): reg. 6 renumbered as reg. 6(1) (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **29(a)**

F25 Words in reg. 6(1)(b) substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(8)**

F26 Reg. 6(2) inserted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **29(b)**

Welfare of children: prohibition on corporal punishment

7.—(1) A registered early years provider must not use corporal punishment on a child for whom early years provision is provided and, so far as is reasonably practicable, must ensure that corporal punishment is not used on any such child by—

(a) any person who cares for, or is in regular contact with, children; or

(b) any person living or working on the premises on which the early years provision is provided.

(2) A person will not be taken to have used corporal punishment for the purposes of paragraph (1) if the action was taken for reasons that include averting an immediate danger of personal injury to, or an immediate danger of death of, any person including the child.

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(3) For the purposes of paragraphs (1) and (2) above, “corporal punishment” means anything done for the purposes of punishing the child (whether or not there are other reasons for doing it) which, absent any justification, would constitute battery.

Provision of information

8.—(1) A registered early years provider must notify the [^{F27}relevant person] of the occurrence of any of the events set out in the Schedule to these Regulations and must at the same time provide the [^{F27}relevant person] with the information specified in that Schedule in respect of that event.

(2) The notification and information referred to in paragraph (1) must be provided to the [^{F27}relevant person]—

- (a) where it is reasonably practicable to do so, in advance of the event occurring; and
- (b) in all other cases as soon as reasonably practicable, but in any event within 14 days beginning with the date that the event occurred.

(3) Where the registered early years provider is required to notify the [^{F27}relevant person] of a change of person under paragraphs 11(a) or 12(a) or (b) of the Schedule, the notification must include the new person's—

- (a) full name, and any former name or alias,
- (b) date of birth, and
- (c) home address.

Textual Amendments

F27 Words in reg. 8 substituted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, 30

[^{F28}Approval of the suitability of additional premises

8A.—(1) This regulation applies if a registered early years provider (“P”) proposes to provide early years provision (“the proposed provision”) on additional premises.

(2) If the proposed provision is early years childminding and the additional premises are non-domestic premises, P must—

- (a) demonstrate to the relevant person that the requirements in paragraphs 7 to 9 of Schedule 1 to the 2008 Regulations will be satisfied, and are likely to continue to be satisfied, in relation to the proposed provision; and
- (b) send to the relevant person the information in paragraphs 18 and 21 to 23 of Schedule 1 to the 2008 Regulations.

(3) If the proposed provision would be early years childminding but for section 96(5) of the Act, P must—

- (a) demonstrate to the relevant person that the requirements in paragraphs 5 to 8, 13 and 14 of Schedule 2 to the 2008 Regulations will be satisfied, and are likely to continue to be satisfied, in relation to the proposed provision; and
- (b) send to the relevant person the information in paragraphs 24 to 26 of Schedule 2 to the 2008 Regulations.

(4) If the proposed provision does not fall within paragraphs (2) or (3), P must—

- (a) demonstrate to the relevant person that the requirements in paragraphs 5 to 8 and 13 of Schedule 2 to the 2008 Regulations will be satisfied, and are likely to continue to be satisfied, in relation to the proposed provision; and
 - (b) send to the relevant person the information in paragraphs 25 and 26 of Schedule 2 to the 2008 Regulations.
- (5) In this regulation—
- “the 2008 Regulations” means the Childcare (Early Years Register) Regulations 2008; and
- “additional premises” means premises which the relevant person has not already approved as suitable for the purposes of paragraph 11A of Schedule 1 or paragraph 14A of Schedule 2 to the 2008 Regulations in relation to P.]

Textual Amendments

F28 Reg. 8A inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **8(4)**

Provision of information relating to disqualification

9.—(1) A registered early years provider must provide the following information to the [F29 relevant person]—

- (a) details of any order, determination, conviction or other ground for disqualification from registration made or applying in relation to a person listed in paragraph (2) which results in that person being disqualified from registration under regulations made under section 75 of the Act (disqualification from registration);
- (b) the date when the order, determination or conviction was made or when any other ground for disqualification from registration arose;
- (c) the body or court by which the order, determination or conviction was made and the sentence, if any, imposed;
- (d) in relation to an order or conviction, a certified copy of the relevant order or court order.

(2) The persons in respect of whom the information referred to in paragraph (1) must be provided are—

- (a) the registered early years provider; and
- (b) any person who lives in the same household as the registered early years provider or who is employed in that household.

(3) The information referred to in paragraph (1) must be provided to the [F29 relevant person] as soon as reasonably practicable, but in any event within 14 days beginning with the date on which the registered early years provider became aware of that information or ought reasonably to have become aware of it if they had made reasonable enquiries.

Textual Amendments

F29 Words in reg. 9 substituted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **30**

Failure to comply with welfare requirements notice

10.—(1) Where the Chief Inspector considers that [^{F30}an early years provider who is registered in the early years register and] to whom section 40 applies has failed or is failing to comply with the welfare requirements the Chief Inspector may give a notice to the registered early years provider specifying—

- (a) in what respect the registered early years provider has failed or is failing to comply with those requirements; and
- (b) where appropriate—
 - (i) what action the registered early years provider should take to comply; and
 - (ii) the period within which the registered early years provider should take that action, such period to begin with the date of the notice.

(2) The registered early years provider must comply with the terms of the notice within the period specified in the notice.

(3) A notice under this regulation must be given in accordance with regulation 11.

Textual Amendments

F30 Words in reg. 10(1) substituted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, 31

Service of the welfare requirements notice

11.—(1) A notice may be given to a registered early years provider by the Chief Inspector—

- (a) by delivering it to the provider,
- (b) by sending it by post,
- (c) subject to paragraph (2), by transmitting it electronically.

(2) If the notice is transmitted electronically, it is to be treated as given only if the following requirements are met—

- (a) the person upon whom the notice is required or authorised to be given must have indicated to the Chief Inspector a willingness to receive notices transmitted by electronic means and must have provided an address suitable for that purpose; and
- (b) the notice must be sent to the address provided by the person.

(3) An indication given for the purposes of paragraph (2) must be given for the purpose of the service of notices under this regulation.

(4) For the purposes of section 7 of the Interpretation Act 1978 (references to service by post) a notice under this regulation is to be treated as properly addressed if it is addressed to the registered early years provider at the address notified to the Chief Inspector as the address to which correspondence to the registered early years provider should be sent.

Offence

12.—(1) A registered early years provider who, without reasonable excuse, fails to comply with the requirements of regulation 7(1), 8(1), 8(2) or 10(2) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Proceedings under this regulation may only be taken—

- (a) by the Chief Inspector, and

- (b) after the Chief Inspector has allowed a period not exceeding one month, beginning with the date the Chief Inspector notified the registered early years provider of the decision to take proceedings, for the registered early years provider to make representations.

Revocations

13. The following regulations are revoked—

The Early Years Foundation Stage (Welfare Requirements) Regulations 2007^{M3};

The Early Years Foundation Stage (Welfare Requirements) (Amendment) Regulations 2008^{M4},

The Early Years Foundation Stage (Welfare Requirements) (Amendment) Regulations 2009^{M5}.

Marginal Citations

M3 [S.I. 2007/1771](#).

M4 [S.I. 2008/1953](#).

M5 [S.I. 2009/1549](#).

Department for Education

Sarah Teather
Minister of State

Status: Point in time view as at 01/09/2021.

Changes to legislation: There are currently no known outstanding effects for the The Early Years Foundation Stage (Welfare Requirements) Regulations 2012. (See end of Document for details)

SCHEDULE

Regulation 8

Events to be notified to the Chief Inspector

1. Any change to the address of the premises on which childcare is provided.
2. Particulars of any change to the premises on which childcare is provided that may affect the space available to children and the quality of childcare available to them.
3. Particulars of any proposal to change the hours during which childcare is to be provided which will entail the provision of overnight childcare.
4. Particulars of any allegation of serious harm to or abuse of a child committed by any person living, working or caring for children at the premises on which childcare is provided (whether that allegation relates to harm or abuse committed on those premises or elsewhere), and any other abuse which is alleged to have taken place on those premises, and of the action taken in respect of the allegation.
5. Particulars of any serious accident, serious illness, serious injury to, or death of, any child whilst in the care of the early years provider, and of the action taken in respect of the serious accident, serious illness, serious injury, or death.
6. Particulars of any incident of food poisoning affecting two or more children cared for on the premises on which childcare is provided.
7. Particulars of any other significant event which is likely to affect the suitability of the early years provider or any person who cares for, or is in regular contact with, children on the premises on which childcare is provided to look after children.
8. Where childcare is provided by a body corporate, any change in the name or registered number of the company.
9. Where childcare is provided by a registered charity, any change in the name or registration number of the charity.
10. In the case of an early years provider who is not an early years childminder—
 - (a) any change in the name or address of the provider;
 - (b) any change of the person who is managing the early years provision.
11. In the case of an early years childminder—

[^{F31}(za) any change of the persons who are providing care for children as part of the early years childminding;]

 - (a) [^{F32}if the early years childminding is provided on domestic premises,] any change of the persons of 16 years or older living or working on [^{F33}those premises] (providing that persons are not to be treated as working on the premises for the purpose of this paragraph if none of their work is done in the part of the premises in which children are cared for or if they do not work on the premises at times when children are there);
 - (b) any change in the name or address of the childminder.

Textual Amendments

F31 Sch. para. 11(z a) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **8(5)(a)**

F32 Words in Sch. para. 11(a) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **8(5)(b)(i)**

F33 Words in Sch. para. 11(a) substituted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **8(5)(b)(ii)**

12.—(1) In the case of an early years provider (other than an early years childminder) which is a partnership, body corporate or unincorporated association—

- (a) any change of the person who is the nominated individual, and
- (b) where the early years provider's sole or main purpose is the provision of childcare, any change of a person who is a partner in, or a director, secretary or other officer or member of the governing body of, the early years provider.

(2) For the purposes of sub-paragraph (1)(a), “the nominated individual” has the meaning given in paragraph 9 of Schedule 2 to the Childcare (Early Years Register) Regulations 2008 ^{M6}.

Marginal Citations

M6 [S.I. 2008/974](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under the Childcare Act 2006 (“the Act”), specify the welfare requirements that early years providers (“providers”) must meet. Together with the “learning and development requirements” specified under section 39(1)(a) of the Act, these form the “Early Years Foundation Stage”.

The “Statutory Framework for the Early Years Foundation Stage”, published by the Secretary of State for Education on 27th March 2012 is given the force of law. Copies of the document can be found on the website of the Department for Education at <https://www.education.gov.uk/publications/standard/AllPublications/Page1/DFE-00023-2012>

Regulations 3, 7, 8 and 9 specify welfare requirements. These include a prohibition on corporal punishment by providers to children in their care (regulation 7), a list of events the occurrence of which must be notified to the Chief Inspector (regulation 8 and the Schedule) and a requirement that a provider must give the Chief Inspector information about matters leading to disqualification from registration as a childcare provider under section 75 of the Act.

Regulations 10 and 11 set out the procedure to be followed by the Chief Inspector where a provider has failed or is failing to comply with the welfare requirements.

Regulation 12 makes it an offence if a provider fails to comply with the requirements set out in regulations 7, 8 and 10(2).

Regulation 13 contains revocations.

An impact assessment has been prepared for these Regulations and can be found at <http://www.ialibrary.bis.gov.uk/>

Status:

Point in time view as at 01/09/2021.

Changes to legislation:

There are currently no known outstanding effects for the The Early Years Foundation Stage (Welfare Requirements) Regulations 2012.