

STATUTORY INSTRUMENTS

2012 No. 938

The Early Years Foundation Stage (Welfare Requirements) Regulations 2012

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—

- (a) in the case of a person who is an early years childminder, the document entitled “Early Years Foundation Stage Statutory Framework for Childminders” dated 8th December 2023 and published by the Secretary of State on the gov.uk website;
- (b) in the case of an early years provider other than an early years childminder, the document entitled “Early Years Foundation Stage Statutory Framework for Group and School-based Providers” dated 8th December 2023 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—

- (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 (4.1.2024) by [The Early Years Foundation Stage \(Learning and Development, Early Years Register and Welfare Requirements\) \(Amendment\) Regulations 2023](#) (S.I. 2023/1338), [regs. 1\(2\), 4\(2\)](#)
- 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} to 9] specify welfare requirements under section 39(1)(b) of the Act.
- [^{F7}(2) It is directed that—
- (a) the obligatory provisions of the Document; and
 - (b) the Qualifications Document, insofar as it specifies qualifications and training requirements to be met by early years providers who are not early years childminders,
- 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—
- [^{F9}(a) paragraphs 3.9, 3.19, 3.20, 3.56, 3.58, 3.62 and 3.86 of the Document referred to in sub-paragraph (a) of the definition of the Document;
 - (b) paragraphs 3.9, 3.18, 3.19, 3.20, 3.58, 3.60, 3.64, 3.88 and 3.89 of the Document referred to in sub-paragraph (b) of the definition of the Document.]]
- (3) Early years providers to whom section 40 of the Act ^{M1} applies must have regard to the matters in [^{F10}the relevant provisions] of the Document in securing that the early years provision they provide complies with the welfare requirements.

[^{F11}(4) “Qualifications Document” means the document entitled “Early years qualification requirements and standards” dated 8th December 2023 and published by the Secretary of State on the gov.uk website.]

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** Reg. 3(2) substituted (4.1.2024) by [The Early Years Foundation Stage \(Learning and Development, Early Years Register and Welfare Requirements\) \(Amendment\) Regulations 2023 \(S.I. 2023/1338\)](#), regs. 1(2), **4(3)(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(2A) substituted (4.1.2024) by [The Early Years Foundation Stage \(Learning and Development, Early Years Register and Welfare Requirements\) \(Amendment\) Regulations 2023 \(S.I. 2023/1338\)](#), regs. 1(2), **4(3)(b)**
- F10** 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)**
- F11** Reg. 3(4) inserted (4.1.2024) by [The Early Years Foundation Stage \(Learning and Development, Early Years Register and Welfare Requirements\) \(Amendment\) Regulations 2023 \(S.I. 2023/1338\)](#), regs. 1(2), **4(3)(c)**

Marginal Citations

- M1** 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.

Temporary modification of the welfare requirements in the Document

^{F12}**3A.**

Textual Amendments

- F12** [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)**)

Further temporary modification of the welfare requirements in the Document

^{F13}**3B.**

Textual Amendments

- F13** [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)**)

Requirement on the Chief Inspector [^{F14}and early years childminder agencies]

4. The Chief Inspector [^{F15}and early years childminder agencies] must have regard to the welfare requirements specified in regulation 3 and the matters in [^{F16}the relevant provisions] of the Document in exercising functions under Part 3 of the Act.

Textual Amendments

- F14** 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)**
- F15** 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)**
- F16** 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.—[^{F17}(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 [^{F18}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.

[^{F19}(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

- F17** 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)**
- F18** 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)**
- F19** 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)**

[^{F20}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 [^{F21}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

- F20** Reg. 5A inserted (1.9.2014) by [The Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014 \(S.I. 2014/912\)](#), regs. 1, **28**

F21 Words in reg. 5A(b) substituted (3.4.2017) by [The Childcare \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/361\)](#), regs. 1, **4(7)**

Matters to be considered by early years childminder agencies: effect of temporary closure directions

F22 **5B.**

Textual Amendments

F22 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.—^{F23}(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 ^{F24}the relevant provisions] of the Document

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

^{F25}(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

- F23** 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)**
- F24** 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)**
- F25** 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.

(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 [^{F26}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 [^{F26}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 [^{F26}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 [^{F26}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

F26 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**

[^{F27}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

F27 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 [F28relevant 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 [F28relevant 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

F28 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 [F29an 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

- F29** 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 ^{M2};

The Early Years Foundation Stage (Welfare Requirements) (Amendment) Regulations 2008^{M3},

The Early Years Foundation Stage (Welfare Requirements) (Amendment) Regulations 2009^{M4}.

Marginal Citations

M2 [S.I. 2007/1771](#).

M3 [S.I. 2008/1953](#).

M4 [S.I. 2009/1549](#).

Department for Education

Sarah Teather
Minister of State

Changes to legislation:

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