

EXPLANATORY MEMORANDUM TO
THE CHILDCARE (EARLY YEARS REGISTER) (CONSEQUENTIAL PROVISIONS)
REGULATIONS 2015

2015 No. 963

1. This explanatory memorandum has been prepared by Department of Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations make two provisions as a consequence of the commencement of section 75(1) of the Small Business, Enterprise and Employment Act 2015:

- removing article 9 of the Childcare (Exemptions from Registration) Order 2008 which exempted schools, in certain circumstances, from having to register their provision for children below the age of three, separately with Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector"); and
- providing that all existing registrations granted by the Chief Inspector, whose registration is no longer required as a consequence of the commencement of section 75(1), cease to have effect.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 These Regulations make provisions in consequence of the commencement of section 75(1) of the Small Business, Enterprise and Employment Act 2015.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Section 75(1) of the Small Business, Enterprise and Employment Act 2015, when commenced, will make it easier for schools to take two-year-olds by removing the requirement to register separately with Ofsted for provision for two-year-olds. This will reduce the bureaucratic burden on schools.

7.2 Section 75(1) amends section 34(2) of the Childcare Act 2006 to extend the exemption to children aged two. It makes no other changes to that section. Section 34(2) provides that early years provision made for children aged three and over at maintained schools, non-maintained special schools or independent schools is exempt from the requirement to register with the Chief Inspector, where that provision is made by the school and one or more pupils attend it.

7.3 These are consequential provisions to remove a redundant provision and to provide that all existing registrations that meet the requirements for exemption outlined in the amended section 34(2) cease to have effect beyond the day of commencement.

8. Consultation outcome

8.1 These are minor consequential changes resulting from the commencement of section 75(1) of the Small Business, Enterprise and Employment Act 2015. The proposal to remove the requirement (to register) was not consulted on but it was originally announced in January 2013 in the report “More great childcare: raising quality and giving parents more choice”. It was re-iterated in a second report “More affordable childcare” (July 2013) which stated clearly that the department would be taking this measure forward at the earliest legislative opportunity.

9. Guidance

9.1 These changes are de-regulatory but the Chief Inspector will be amending their guidance and procedures to ensure that schools are aware of when they do and do not need to register any early years provision separately with the Chief Inspector. The Department will also be using its regular communications with schools to inform them of the changes to the early years registration requirements.

10. Impact

10.1 The impact on business, charities or voluntary bodies is limited to independent schools who have charitable status. It will have a positive impact as they will no longer have to register provision for two-year-olds separately with Ofsted, and as a consequence will only be subject to a single inspection visits.

10.2 The impact on the public sector is limited to schools. It will have a positive impact as they will no longer have to register provision for two-year-olds separately with Ofsted, and as a consequence will only be subject to a single inspection visits.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 These provisions have no on-going effect that would require monitoring or review.

13. Contact

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cath.rourke@education.gsi.gov.uk can answer any queries regarding the instrument.