

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: CHILDCARE AND SCHOOLS

Section 75: Exemption from requirement to register as early years provider

369. This section will amend section 34(2) in Part 3 of the 2006 Act and make related changes to sections 63 of the 2006 Act and 94 of the Education and Skills Act 2008. The impact of these changes means that the existing exemption for schools not to register separately will be extended downwards to include two-year-olds.
370. **Section 34** sets out the requirement for early years providers, other than childminders, to be registered. Such early years providers must register in respect of particular premises. However, the revised subsection (2) will exempt from this requirement early years provision made for children aged two and over at a maintained school, non-maintained special school or independent school where that provision is made by the school and one or more pupils attend it.
371. The other changes are required to bring those sections in line with section 34(2). Section 63(1) makes provision for providers of early or later years provision which is not otherwise required to be registered with HMCI to register with HMCI on a voluntary basis in Part B of the General Childcare Register established under Part 3 of the 2006 Act. The change to section 34(2) means changes are also necessary to section 63(3) so that a school may not register its childcare provision on the voluntary register when the provision is for a child who has attained the age of two, rather than the age of three.
372. The Childcare (Exemptions from Registration) Order 2008 provides, at article 9, an exemption from registration under section 34(1) for provision made at a school as part of the school's activities, by the proprietor or employee of the school, where the provision is for a registered pupil who has not attained the age of three but will do so before the expiry of the child's first term at the school. We intend to amend or remove this article in due course as it will no longer be relevant in light of the changes to section 34(2).
373. Changes to section 94 of the Education and Skills Act 2008 are necessary to amend section 94(5)(b) so that it refers to the Early Years Foundation Stage (EYFS) being part of the "independent school standards" for children who have attained the age of two. Making this change should remove the burden on independent schools with pupils age two from having to register on the Early Years Register, while continuing to allow effective inspections under the 2008 Act and ensuring that the EYFS is implemented as the standard for children age two.