
STATUTORY INSTRUMENTS

2008 No. 1743

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

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⁽¹⁾ apply with modifications, or do not apply—

- (a) in the circumstances prescribed in regulation 3, and to the extent prescribed in regulation 4; or
- (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⁽²⁾ 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.

(1) 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.

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

- (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.

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.