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STATUTORY INSTRUMENTS

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**2014 No. 912**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Childcare (Welfare and Registration Requirements) (Amendment) Regulations 2014**

*Made* - - - - *3rd April 2014*  
*Laid before Parliament* *8th April 2014*  
*Coming into force* - - *1st September 2014*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 35, 36, 39(1)(b), 43(1) and (3), 44(1) to (4), 54, 55, 59, 67 and 104(2) of the Childcare Act 2006(1).

In accordance with sections 43(2), 59(2) and 67(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.

**Citation and commencement**

1. These Regulations may be cited as the Childcare (Welfare and Registration Requirements) (Amendment) Regulations 2014 and come into force on 1st September 2014.

**Amendment to the Childcare (Early Years Register) Regulations 2008**

2. The Childcare (Early Years Register) Regulations 2008(2) are amended as follows.

3. In regulation 2—

(a) for the definition of “appropriate first aid qualification” substitute—

““appropriate first aid qualification” means a paediatric first aid certificate as described in Section 3 of the Statutory Framework for the Early Years Foundation Stage published by the Secretary of State on 31st March 2014 on the website of the Department for Education;”;

(b) after the definition of “the EYFS welfare requirements” insert—

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(1) 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) (“the 2009 Act”). Section 44(2) to (4) was amended by paragraph 11 of Schedule 4 to the Children and Families Act 2014 (c. 6) (“the 2014 Act”). See section 106 of the Childcare Act 2006 (“the 2006 Act”) for definitions of “prescribed” and “regulations”.

(2) S.I. 2008/974, as amended by S.I. 2012/939.

““relevant person” means—

- (a) in the case of a person applying for registration in the early years register, the Chief Inspector, and
- (b) in the case of a person applying for registration with an early years childminder agency, the agency;”(3).

4. In regulation 4(2), after “section 36(1)” insert “or (1A)”.

5.—(1) Schedule 1 is amended as follows.

(2) After paragraph 1 insert—

“1A.—(1) In the case of an application for registration in the early years register, the applicant is not already registered with a childminder agency under Chapter 2 or 3 of Part 3 of the Act.

(2) In the case of an application for registration with an early years childminder agency, the applicant is not already registered—

- (a) with another childminder agency under Chapter 2 or 3 of Part 3 of the Act, or
- (b) in the early years register or the general childcare register.”.

(3) In paragraph 3, for “Chief Inspector” substitute “relevant person”.

(4) In paragraph 3A, for “an appropriate course approved by an English local authority”, substitute “a course”.

(5) In paragraphs 9 and 11, for “Chief Inspector” substitute “relevant person”.

6.—(1) Schedule 2 is amended as follows.

(2) After paragraph 1 insert—

“1A.—(1) In the case of an application for registration in the early years register, the applicant is not already registered with a childminder agency under Chapter 2 or 3 of Part 3 of the Act.

(2) In the case of an application for registration with an early years childminder agency, the applicant is not already registered—

- (a) with another childminder agency under Chapter 2 or 3 of Part 3 of the Act, or
- (b) in the early years register or the general childcare register.”.

(3) In paragraph 2, for “Chief Inspector” substitute “relevant person”.

(4) For paragraph 8, substitute—

“8. The applicant has, in respect of the manager (if not the applicant)—

- (a) obtained an enhanced criminal record certificate, or
- (b) provided an application for an enhanced criminal record certificate to the relevant person where the provision is early years provision on domestic premises which would be early years childminding but for section 96(5) of the Act.”.

(5) In paragraphs 11, 12(b), 14(3) and 14(6), for “Chief Inspector” substitute “relevant person”.

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(3) Early years childminder agency is defined in section 98(1) of the 2006 Act, as amended by paragraph 62 of Schedule 4 to the 2014 Act.

## **Amendments to the Childcare (General Childcare Register) Regulations 2008**

7. The Childcare (General Childcare Register) Regulations 2008(4) are amended as follows.
8. For the heading to Part 2, substitute “Registration as a later years provider under Chapter 3 of Part 3 of the Act”.
9. In regulation 2, after the definition of “parent” insert—
  - ““relevant person” means—
  - (a) in the case of a person who is applying for registration or who is registered in the general childcare register, the Chief Inspector, and
  - (b) in the case of a person who is applying for registration or who is registered with a childminder agency, the agency.”.
10. In regulation 5(2), after “section 55(1)” insert “or (1A)”.
11. In regulation 7—
  - (a) in the heading, at the end add “and later years childminder agencies”(5); and
  - (b) for “is required” substitute “and later years childminder agencies are required”.
12. In regulation 8, paragraph (a), for “Chief Inspector” substitute “relevant person”.
13. After regulation 8 insert—
  - “8A. Any allegation that a later years childminder agency has failed to meet the requirement in regulation 7 may be taken into account—
  - (a) by the Chief Inspector in the exercise of functions under Part 3 of the Act, or
  - (b) in any proceedings under that Part.”.
14. In regulation 9(1), after “register” insert “or with a later years childminder agency”.
15. For the heading to Part 4, substitute “Voluntary registration under Chapter 4 of Part 3 of the Act”.
16. In regulation 12—
  - (a) in the heading, for “in Part B of the general childcare register” substitute “voluntarily”; and
  - (b) after “register” insert “or a person registered with a childminder agency under Chapter 4 of Part 3 of the Act”.
17. In regulation 13, for “is required” substitute “and childminder agencies are required”.
18. In regulation 14—
  - (a) for “registered in Part B of the general childcare register” substitute “to whom section 67 of the Act applies”; and
  - (b) in sub-paragraph (a), for “Chief Inspector” substitute “relevant person”.
19. After regulation 14 insert—
  - “14A. Any allegation that a childminder agency has failed to meet the requirement in regulation 13 may be taken into account—
  - (a) by the Chief Inspector in the exercise of functions under Part 3 of the Act, or
  - (b) in any proceedings under that Part.”.

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(4) [S.I. 2008/975](#), as amended by [S.I. 2009/1545](#), [S.I. 2010/677](#) and [S.I. 2012/1699](#).

(5) Later years childminder agency is defined in section 98(1) of the 2006 Act, as amended by paragraph 62 of Schedule 4 to the 2014 Act.

**20.**—(1) Schedule 1 is amended as follows.

(2) In the heading to the Schedule, omit the words “in Part A of the general childcare register”.

(3) After paragraph 1 insert—

“**1A.**—(1) In the case of an application for registration in Part A of the general childcare register, the applicant is not already registered with a childminder agency under Chapter 2 or 3 of Part 3 of the Act.

(2) In the case of an application for registration with a later years childminder agency, the applicant is not already registered—

(a) with another childminder agency under Chapter 2 or 3 of Part 3 of the Act, or

(b) in the early years register or the general childcare register.”.

(4) In paragraph 3, for “Chief Inspector” substitute “relevant person”.

(5) In paragraph 4A, for “an appropriate course approved by an English local authority”, substitute “a course”.

(6) In paragraphs 6 and 8, for “Chief Inspector” substitute “relevant person”.

**21.**—(1) Schedule 2 is amended as follows.

(2) In the heading to the Schedule, omit the words “in Part A of the general childcare register”.

(3) After paragraph 1 insert—

“**1A.**—(1) In the case of an application for registration in Part A of the general childcare register, the applicant is not already registered with a childminder agency under Chapter 2 or 3 of Part 3 of the Act.

(2) In the case of an application for registration with a later years childminder agency, the applicant is not already registered—

(a) with another childminder agency under Chapter 2 or 3 of Part 3 of the Act, or

(b) in the early years register or the general childcare register.”.

(4) In paragraph 2, for “Chief Inspector” substitute “relevant person”.

(5) For paragraph 5, substitute—

“**5.** The applicant has, in respect of the manager (if not the applicant)—

(a) obtained an enhanced criminal record certificate, or

(b) provided an application for an enhanced criminal record certificate to the relevant person, where the provision is later years provision on domestic premises which would be later years childminding but for section 96(9) of the Act.”.

(6) In paragraphs 8, 9(b), 11(3) and 11(6), for “Chief Inspector” substitute “relevant person”.

**22.**—(1) Schedule 3 is amended as follows.

(2) After paragraph 1 insert—

“**1A.** The later years provider ensures, so far as is reasonably practicable, that every person caring for the children for whom the later years provision is provided is alert to any indications that a child may be suffering from harm.”.

(3) In paragraph 2—

(a) for sub-paragraph (2), substitute—

- “(2) When later years provision (other than later years childminding) is being provided—
- (a) a sufficient number of persons is present at all times on the relevant premises to ensure the safety and welfare of the children for whom the later years provision is provided, but such number must not be less than one person caring for every thirty children,
  - (b) at least one such person is the later years provider, the manager, or a person who works for the later years provider caring for the children for whom the later years provision is provided, and
  - (c) at least one such person (which may be the person required to be present by paragraph (2)(b)) has an appropriate first aid qualification.”; and
- (b) omit sub-paragraph (3).
- (4) In paragraph 3, for “has not attained the age of 18” substitute “has not attained the age of 17”.
- (5) In paragraph 6—
- (a) the existing paragraph is renumbered as sub-paragraph (1); and
  - (b) after that sub-paragraph, insert—
- “(2) The later years provider provides, or secures the provision of, training to every person caring for the children for whom the later years provision is provided on the procedures set out in the written statement.”.
- (6) After paragraph 6 insert—
- “**6A.**—(1) A person is designated to—
- (a) have particular responsibility for ensuring the welfare and safety of the children for whom the later years provision is provided,
  - (b) provide support and guidance in relation to child protection matters to any person who cares for the children for whom the later years provision is provided,
  - (c) attend child protection training (in addition to the training described in sub-paragraph 6(2)) designed to enable the person to identify and act on any indications that a child may be suffering from harm, and
  - (d) liaise with any Local Safeguarding Children Board (as established under section 13 of the Children Act 2004<sup>(6)</sup>) and any director of children’s services (within the meaning given by section 18 of that Act<sup>(7)</sup>).
- (2) When later years childminding is provided, the designated person must be the later years childminder, and when later years provision (other than later years childminding) is provided, the designated person must be the later years provider, the manager, or any person who works for the later years provider caring for the children for whom the later years provision is provided.”.
- (7) In paragraph 8—
- (a) in sub-paragraph (1)(a), at the end add “and”;
  - (b) for sub-paragraph (1)(b), substitute—
- “(b) has a sufficient command of the English language to ensure the welfare and safety of the children for whom the later years provision is provided.”; and

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(6) 2004 c. 31. Section 13 was amended by S.I. 2010/1158, Schedule 2, Part 2, paragraph 55 and by section 196 of the 2009 Act.  
(7) Section 18 was amended by S.I. 2010/1158, Schedule 2, Part 2, paragraph 55, by section 194 of the 2009 Act, by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraph 266 and by the Further Education and Training Act 2007 (c. 25), Schedule 2.

(c) omit sub-paragraphs (1)(c) and (1)(d).

(8) For paragraph 11, substitute—

“**11.** The later years provider provides, or secures the provision of, any training which, in the opinion of the later years provider, is necessary to ensure that the persons caring for the children for whom the later years provision is provided have the skills and experience suitable to care for such children.”.

(9) In paragraph 12—

(a) at the end of paragraph (b) omit “and”; and

(b) after paragraph (c) insert—

“(d) where food is provided, the premises have suitable facilities for the preparation of the food,

(e) the premises have toilet and hand washing facilities sufficient in number for, and suitable for use by, the children for whom the later years provision is provided, and

(f) the premises provide access to a secure outdoor space or, where this is not practicable, reasonable arrangements are made for activities to take place outdoors.”.

(10) For paragraph 13, substitute—

“**13.** All necessary measures are taken to minimise any risks to the health or safety of the children for whom the later years provision is provided, and of any person who works for the later years provider caring for such children, arising from the relevant premises (including the means of access to and exit from those premises), the equipment used for the purposes of the later years provision and the activities provided.”.

(11) After paragraph 13 insert—

**“Food provided for children**

**13A.—(1)** Any food and drink provided to the children for whom the later years provision is provided is properly prepared, wholesome and nutritious.

(2) The children for whom the later years provision is provided have access to drinking water.”.

(12) Omit paragraph 16.

(13) In paragraph 17—

(a) for “section 1(1) of the Disability Discrimination Act 1995”, substitute “section 6(1) of the Equality Act 2010(8)”; and

(b) for “section 21 of the Disability Discrimination Act 1995 (duty of service providers to make adjustments)”, substitute “section 20(4) of the Equality Act 2010 (duty to make adjustments)”.

(14) In paragraphs 18(1)(e), 24(d), 25(1) and 26, in each place where it occurs, for “Chief Inspector” substitute “relevant person”.

(15) In paragraph 28, after “section 56” insert “, section 56A”.

(16) In paragraph 29, after “section 69” insert “or section 69A”.

**23.—(1)** Schedule 6 is amended as follows.

(2) In the heading to the Schedule, for “in Part B of the general childcare register” substitute “voluntarily”.

(3) For paragraph 4 substitute—

“In the case of a registered person who is registered as a provider of childcare other than a childminder—

(a) a sufficient number of persons is present at all times on the relevant premises to ensure the safety and welfare of the children for whom the childcare is provided, and

(b) at least one such person is the registered person, the manager, or a person who works for the registered person caring for the children for whom the childcare is provided.”.

(4) In paragraph 5, for “has not attained the age of 18”, substitute “has not attained the age of 17”.

(5) In paragraph 10, omit sub-paragraphs (1)(b), (1)(c) and (1)(d).

(6) In paragraph 14, for sub-paragraph (1) substitute—

“(1) In the case of a registered person who is not a home child-carer, all necessary measures are taken to minimise any risks to the health or safety of the children for whom the childcare is provided, and of any person who works for the registered person caring for such children, arising from the relevant premises (including the means of access to and exit from those premises), the equipment used for the purposes of the childcare and the activities provided.”.

(7) Omit paragraph 17.

(8) In paragraph 18—

(a) for “section 1(1) of the Disability Discrimination Act 1995”, substitute “section 6(1) of the Equality Act 2010”; and

(b) for “section 21 of the Disability Discrimination Act 1995 (duty of service providers to make adjustments)”, substitute “section 20(4) of the Equality Act 2010 (duty to make adjustments)”.

(9) In paragraphs 19(1)(e), 26(1)(e) and 27(1), in each place where it occurs, for “Chief Inspector” substitute “relevant person”.

(10) In paragraph 29, in the first place where it occurs, for “Chief Inspector” substitute “relevant person”.

(11) In paragraph 31(1), after “section 64” insert “, section 65A”.

(12) In paragraph 32(1), after “section 69” insert “or section 69A”.

(13) In paragraph 33, after “register” insert “or with a childminder agency under Chapter 4 of Part 3 of the Act”.

### **Amendments to the Early Years Foundation Stage (Welfare Requirements) Regulations 2012**

**24.** The Early Years Foundation Stage (Welfare Requirements) Regulations 2012(9) are amended as follows.

**25.** In regulation 2—

(a) in the definition of “the Document” for “27th March 2012” substitute “31st March 2014”;

(b) for the definition of “registered early years provider” substitute—

““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;”;

- (c) after the definition of “registered early years provider” insert—
- ““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.”.
- 26.** In regulation 4—
- (a) after “Chief Inspector” insert “and early years childminder agencies”; and
- (b) in the heading, at the end insert “and early years childminder agencies”.
- 27.** In regulation 5—
- (a) the existing regulation is renumbered as paragraph (1); and
- (b) after that paragraph insert—
- “(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.”.
- 28.** After regulation 5 insert—
- “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 Schedule 3 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.”.
- 29.** In regulation 6—
- (a) the existing regulation is renumbered as paragraph (1); and
- (b) after that paragraph insert—
- “(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.”.
- 30.** In regulations 8 and 9, in each place where it appears, for “Chief Inspector” substitute “relevant person”.
- 31.** In regulation 10(1), for “a registered early years provider” substitute “an early years provider who is registered in the early years register and”.

3rd April 2014

*Elizabeth Truss*  
Parliamentary Under Secretary of State  
Department for Education



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Childcare (Early Years Register) Regulations 2008 (“the EYR Regulations”), the Childcare (General Childcare Register) Regulations 2008 (“the GCR Regulations”) and the Early Years Foundation Stage (Welfare Requirements) Regulations 2012 (“the 2012 Regulations”).

The EYR Regulations and the GCR Regulations prescribe the requirements to be met by a person seeking registration in the Early Years Register (“EYR”) and/or in Parts A or B of the General Childcare Register (“the GCR”). The registers are maintained by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (“the Chief Inspector”) under Part 3 of the Childcare Act 2006 (“the Act”). Part 3 of the Act was amended by section 84 of, and Schedule 4 to, the Children and Families Act 2014 to allow for the registration of persons who propose to provide childcare on domestic premises with childminder agencies, as an alternative to registration in one of the registers maintained by the Chief Inspector.

Regulation 3 amends the definition of an appropriate first aid qualification in the EYR Regulations. Regulation 5(4) removes the condition that the course which a prospective early years childminder must complete prior to registration must be approved by a local authority (regulation 20(5) does the same for later years childminders). Regulation 6(4) amends the arrangements for obtaining an enhanced criminal record certificate in respect of the manager of early years provision which would be early years childminding but for section 96(5) of the Act (regulation 21(5) does the same for later years provision). These Regulations also make consequential amendments to the EYR Regulations to account for persons applying for registration with an early years childminder agency.

Regulations 8 to 21 of these Regulations make consequential amendments to the GCR Regulations to account for persons applying for registration with a later years childminder agency.

The requirements in Schedule 3 to the GCR Regulations governing the activities of later years providers are the same for providers registered in Part A of the GCR and for those registered with a later years childminder agency and regulation 22 makes consequential amendments to Schedule 3 to reflect that certain later years providers may be registered with a later years childminder agency.

Regulation 22 also amends the requirements in Schedule 3 of the GCR Regulations. It imposes new requirements on later years providers in relation to the safety and welfare of children, including a requirement to have a person with particular responsibility for safeguarding matters. Changes are made to the requirement to have a specified number of persons caring for the children, to the age of persons caring for the children unsupervised, to the skills required to be held by the later years provider, the manager or by persons caring for the children, to the organisation of the provision and to the requirement to minimise risks to health and safety presented by the later years provision. New requirements are introduced in relation to the food provided to the children, the premises on which care is provided and the training to be provided by the later years provider. The requirement for persons to hold certain qualifications is removed.

The requirements in Schedule 6 to the GCR Regulations governing the activities of persons who are registered in Part B of the GCR and those who are voluntarily registered with a childminder agency are the same and regulation 23 makes consequential amendments to Schedule 6 to reflect that certain providers may be registered on a voluntary basis with a childminder agency.

Regulation 23 also amends the requirements in Schedule 6 of the GCR Regulations. Changes are made to the requirement to have a specified number of persons caring for the children, to the age

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of persons caring for the children unsupervised, to the skills required to be held by the childcare provider, the manager or by persons caring for the children, to the organisation of the provision and to the requirement to minimise risks to health and safety presented by the childcare provision.

The 2012 Regulations specify, and give legal effect to, the welfare requirements that early years providers are required to comply with. Together with the learning and development requirements specified under section 39(1)(a) of the Act, these form the “Early Years Foundation Stage”. Regulation 25 amends the definition of “the Document” in the 2012 Regulations to refer to a new version of the Document published on 31<sup>st</sup> March 2014.

Regulations 25 to 31 also make changes consequential on amendments to the Act in section 84 of, and Schedule 4 to, the Children and Families Act 2014. These changes extend the Chief Inspector’s functions to cover childminder agencies and make similar provision for the registration of providers with agencies as exists for providers who register with the Chief Inspector.

The new version of the Document can be found on the website of the Department for Education at <https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2> and copies of the Document can also be viewed at the Department for Education, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT.

A validation impact assessment covering the childcare registration changes will be available alongside the Explanatory Memorandum for this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk). An impact assessment has not been produced in relation to childminder agency changes as no impact on businesses, civil society organisations or the public sector is foreseen.