STATUTORY INSTRUMENTS

2021 No. 432

CHILDREN AND YOUNG PERSONS, ENGLAND

The Early Years Foundation Stage (Miscellaneous Amendments) and Childcare Fees (Amendment) Regulations 2021

Made - - - -	*30th March 2021*
Laid before Parliament	*31st March 2021*
Coming into force - -	*1st September 2021*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 39(1), 42(1), (2), (5), (6) and (6AA), 44(1), 89 and 104(2) of the Childcare Act 2006(**a**) ("the Act").

The Secretary of State has consulted the Office of Qualifications and Examinations Regulation and such other persons as the Secretary of State considers appropriate in accordance with section 42(A1) of the Act.

The Secretary of State has consulted Her Majesty's Chief Inspector of Education, Children's Services and Skills and such other persons as the Secretary of State considers appropriate in accordance with section 43(2) of the Act.

Citation and commencement

1. These Regulations may be cited as the Early Years Foundation Stage (Miscellaneous Amendments) and Childcare Fees (Amendment) Regulations 2021 and come into force on 1st September 2021.

Amendment of the Early Years Foundation Stage (Learning and Development Requirements) Order 2007

2.—(1) The Early Years Foundation Stage (Learning and Development Requirements) Order 2007(**b**) is amended as follows.

(2) In article 2 (interpretation)—

(a) for the definition of "the Document" substitute—

(**a**) 2006 c. 21. Section 42 was amended by sections 160, 174, 192 and 266 of, and Schedules 12 and 16 to, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) and by section 26 of, and Schedule 8 to, the Education Act 2011 (c. 21). Section 44 was amended by sections 174 and 192 of, and Schedule 12 to, the Apprenticeships, Skills, Children and Learning Act 2009 and section 84 of, and Schedule 4 to, the Children and Families Act 2014 (c. 6). Section 89 was amended by section 84 of, and Schedule 4 to, the Children and Families Act 2014.

(**b**) S.I. 2007/1772, amended by S.I. 2012/937, 2017/361, 2020/444, 939 and 2021/234. There are other amendments, but they are not relevant to these Regulations.

""the Document" means the document entitled "Statutory Framework for the Early Years Foundation Stage" dated 31st March 2021 and published by the Secretary of State on the gov.uk website(**a**);";

(b) after the definition of "the Document" insert—

""reception baseline assessment" has the meaning given in Annex B to the Document;".

(3) In article 3 (specification of the learning and development requirements)—

(a) in paragraph (1), after "and 2 of" insert ", and Annex B to,";

(b) in paragraph (2), for "the relevant provisions of the Document" substitute "Sections 1 and 2 of, and Annex B to, the Document that use the word "should"".

(4) After article 3C (further modification of learning and development requirements in the Document) insert—

"**Delegated supplementary provisions: reception baseline assessments**

3D.—(1) The Secretary of State may make delegated supplementary provisions in relation to—

(a) the monitoring of assessment arrangements for reception baseline assessments;

(b) the assessment, recording and reporting of reception baseline assessments;

(c) the time when, and the manner in which, reception baseline assessments are to be administered;

(d) the investigation of the accuracy and correctness of the results of reception baseline assessments;

(e) the annulment or amendment of the results of reception baseline assessments.

(2) Before making, amending or revoking any delegated supplementary provisions the Secretary of State—

(a) must consult the Office of Qualifications and Examinations Regulation; and

(b) may consult such other persons as the Secretary of State considers appropriate.

(3) The Secretary of State must publish any delegated supplementary provisions.

(4) For the purposes of the exercise of the Secretary of State's functions under this article, and under delegated supplementary provisions made under paragraph (1), an early years provider must permit any person authorised by the Secretary of State—

(a) to enter the premises on which the early years provision is provided and, if different, the premises on which the reception baseline assessment is or was carried out;

(b) to observe the implementation of the assessment arrangements in relation to a reception baseline assessment; and

(c) to inspect, and take copies of, documents and other articles relating to reception baseline assessments.".

(5) In article 4 (further provisions about assessment arrangements)—

(a) insert "and" at the end of paragraph (3)(a);

(b) omit "and" at the end of paragraph (3)(b); and

(c) omit paragraphs (3)(c) and (4).

(6) After article 6B (matters to be considered by early years childminder agencies: effect of temporary closure directions), insert—

(**a**) Early years foundation stage (EYFS) statutory framework - GOV.UK (www.gov.uk)

"**Investigation by the Secretary of State and amendment of reception baseline assessment results**

6C.—(1) If a matter is brought to the Secretary of State's attention which, in the Secretary of State's opinion, relates to the accuracy or correctness of a reception baseline assessment, the Secretary of State must investigate the matter in accordance with any delegated supplementary provisions made under article 3D(1).

(2) Following an investigation under paragraph (1), the Secretary of State—

(a) must notify the early years provider concerned of the outcome of the investigation and describe any action taken, or further action to be taken, by the provider or the Secretary of State;

(b) must provide reasons to the provider concerned for the action taken or to be taken;

(c) may amend or annul the result of a reception baseline assessment, or any part of a reception baseline assessment, in respect of an individual child or a group of children;

(d) may continue to monitor the carrying out of reception baseline assessments by the provider.".

Amendment of the Childcare (Fees) Regulations 2008

3. In regulation 10(7) of the Childcare (Fees) Regulations 2008(**a**), for "2021" substitute "2023".

Amendment of the Early Years Foundation Stage (Welfare Requirements) Regulations 2012

4. In regulation 2 of the Early Years Foundation Stage (Welfare Requirements) Regulations 2012(**b**), for the definition of "the Document" substitute—

""the Document" means the document entitled "Statutory Framework for the Early Years Foundation Stage" dated 31st March 2021 and published by the Secretary of State on the gov.uk website(**c**);".

Nick Gibb
Minister of State
Department for Education

30th March 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Early Years Foundation Stage (Learning and Development Requirements) Order 2007 (S.I. 2007/1772, "the 2007 Order"), the Childcare (Fees) Regulations 2008 (S.I. 2008/1804) and the Early Years Foundation Stage (Welfare Requirements) Regulations 2012 (S.I. 2012/938, "the 2012 Regulations").

Regulations 2(2) and 4 amend definitions in the 2007 Order and the 2012 Regulations. In particular, the amendments make provision for an updated version of the Statutory Framework for the Early Years Foundation Stage document ("the Document"). The changes made to the Document include assessment arrangements in relation to reception baseline assessments, amending the early learning goals and educational programmes, amending the assessment and moderation process in relation to the Early Years Foundation Stage Profile and some other changes to the safeguarding and welfare requirements.

Regulation 2(3) makes consequential amendments to article 3 of the 2007 Order.

(**a**) S.I. 2008/1804, amended by S.I. 2019/835. There are other amendments, but they are not relevant to these Regulations.
(**b**) S.I. 2012/938, amended by S.I. 2017/361. There are other amendments, but they are not relevant to these Regulations.
(**c**) Early years foundation stage (EYFS) statutory framework - GOV.UK (www.gov.uk)

Regulation 2(4) contains provision enabling the Secretary of State to make delegated supplementary provisions in relation to reception baseline assessments after consulting with the Office of Qualifications and Examinations Regulation and such other persons as the Secretary of State considers appropriate.

Regulation 2(5) omits provisions which are no longer relevant given the removal of the local authority moderation process.

Regulation 2(6) contains provision for the investigation of reception baseline assessments results by the Secretary of State where matters relating to the accuracy or correctness of a reception baseline assessment have come to the Secretary of State's attention.

Regulation 3 amends the Childcare (Fees) Regulations 2008 to retain the existing transitional fee arrangements until 31st August 2023.

The updated version of the Document is available on the gov.uk website and hard copies of the Document can be viewed at The Department for Education, Sanctuary Buildings, 20 Great Smith Street, London SW1P 3BT.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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