

PART 3

Modification of welfare requirements

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

7. The Early Years Foundation Stage (Welfare Requirements) Regulations 2012(a) are amended as follows.

8. After regulation 3 (specification of the welfare requirements)(b) insert—

“Temporary modification of the welfare requirements in the Document

3A.—(1) The welfare requirements prescribed in Section 3 of the Document have effect during the relevant period subject to the modifications set out in this regulation.

(2) The requirements in Section 3 of the Document specified in paragraph (3) are to be treated as discharged if the provider has used its reasonable endeavours to discharge the requirement.

(3) The following requirements are specified for the purposes of paragraph (2)—

- (a) in paragraph 3.23, the requirement for at least half of all other staff (excluding the manager) to hold at least a full and relevant level 2 qualification;
- (b) in paragraphs 3.31, 3.32, 3.34 and 3.36 the requirement for at least half of all other staff (excluding the member of staff who holds a full and relevant level 3 qualification) to hold a full and relevant level 2 qualification;
- (c) in paragraph 3.33, the requirement for at least one other member of staff (excluding the member of staff who holds a suitable level 6 qualification) to hold a full and relevant level 3 qualification;
- (d) in paragraph 3.35, the requirement for at least one other member of staff (excluding the member of staff who holds a suitable level 6 qualification, an instructor, or another suitably qualified overseas trained teacher) to hold a full and relevant level 3 qualification; and
- (e) in paragraph 3.37—
 - (i) the requirement for at least one member of staff to be a school teacher, as defined by section 122 of the Education Act 2002(c) but only if the requirements in paragraph 3.34 (as modified by sub-paragraph (b)) are satisfied; and
 - (ii) the requirement for at least one other member of staff (excluding the member of staff who is a school teacher, as defined by section 122 of the Education Act 2002) to hold a full and relevant level 3 qualification.

(4) In paragraph 3.25—

- (a) the words from “All newly qualified entrants” to “in an early years setting.” are disapplied; and
- (b) the requirement for at least one person who has a current paediatric first aid (“PFA”) certificate to be on the premises and available at all times when children are present and to accompany children on outings is to be treated as discharged if the provider has used its best endeavours to discharge the requirement and the conditions in paragraph (5) are satisfied.

(5) The conditions are that—

- (a) all children being cared for on the premises are two years old or more;

(a) S.I. 2012/938; relevant amending instruments are S.I. 2014/912, S.I. 2015/1562 and S.I. 2017/361.

(b) Regulation 3 was amended by S.I. 2015/1562 and amended by S.I. 2017/361.

(c) Section 122 of the Education Act 2002 was amended by S.I. 2010/1158.