



# Children Act 1989

## 1989 CHAPTER 41

### [<sup>F1</sup>PART XA

#### CHILD MINDING AND DAY CARE FOR CHILDREN IN <sup>F1</sup>. . . WALES]

#### *Registration*

#### <sup>F1</sup>79D Requirement to register.

- [<sup>F2</sup>(1) No person shall act as a child minder in Wales unless he is registered under this Part for child minding by the Assembly.]
- (2) Where it appears to [<sup>F3</sup>the Assembly] that a person has contravened subsection (1), [<sup>F3</sup>the Assembly] may serve a notice (“an enforcement notice”) on him.
- (3) An enforcement notice shall have effect for a period of one year beginning with the date on which it is served.
- (4) If a person in respect of whom an enforcement notice has effect contravenes subsection (1) without reasonable excuse <sup>F4</sup>. . . , he shall be guilty of an offence.
- (5) No person shall provide day care on any premises unless he is registered under this Part for providing day care on those premises [<sup>F5</sup>in Wales]by [<sup>F3</sup>the Assembly] .
- (6) If any person contravenes subsection (5) without reasonable excuse, he shall be guilty of an offence.
- (7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

- F1** S. 79D inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in Sch); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs.1-3)

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- F2** S. 79D(1) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 9(a)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F3** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F4** Words in s. 79D(4) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 9(b)** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F5** Words in s. 79D(5) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 9(c)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

### **<sup>F6</sup>79E Applications for registration.**

- (1) A person who wishes to be registered under this Part shall make an application to [<sup>F7</sup>the Assembly] .
- (2) The application shall—
  - (a) give prescribed information about prescribed matters;
  - (b) give any other information which [<sup>F7</sup>the Assembly] reasonably requires the applicant to give.
  - [<sup>F8</sup>(c) be accompanied by the prescribed fee.]
- (3) Where a person provides, or proposes to provide, day care on different premises, he shall make a separate application in respect of each of them.
- (4) Where [<sup>F7</sup>the Assembly] has sent the applicant notice under section 79L(1) of its intention to refuse an application under this section, the application may not be withdrawn without the consent of [<sup>F7</sup>the Assembly] .
- (5) A person who, in an application under this section, knowingly makes a statement which is false or misleading in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Textual Amendments**

- F6** S. 79E inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(ii)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)
- F7** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F8** S. 79E(2)(c) inserted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 3(1)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

### **<sup>F9</sup>79F Grant or refusal of registration.**

- (1) If, on an application [<sup>F10</sup>under section 79E] by a person for registration for child minding—
  - (a) [<sup>F11</sup>the Assembly] is of the opinion that the applicant is, and will continue to be, qualified for registration for child minding (so far as the conditions of section 79B(3) are applicable); <sup>F12</sup> . . .
  - (b) <sup>F12</sup> . . . . .

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- [<sup>F11</sup>the Assembly] shall grant the application; otherwise, it shall refuse it.
- (2) If, on an application [<sup>F10</sup>under section 79E] by any person for registration for providing day care on any premises—
- (a) [<sup>F11</sup>the Assembly] is of the opinion that the applicant is, and will continue to be, qualified for registration for providing day care on those premises (so far as the conditions of section 79B(4) are applicable); <sup>F12</sup> . . .
- (b) <sup>F12</sup> . . . . .
- [<sup>F11</sup>the Assembly] shall grant the application; otherwise, it shall refuse it.
- (3) An application may, as well as being granted subject to any conditions [<sup>F11</sup>the Assembly] thinks necessary or expedient for the purpose of giving effect to regulations under section 79C, be granted subject to any other conditions [<sup>F11</sup>the Assembly] thinks fit to impose.
- (4) [<sup>F11</sup>The Assembly] may as it thinks fit vary or remove any condition to which the registration is subject or impose a new condition.
- (5) Any register kept by [<sup>F11</sup>the Assembly] of persons who act as child minders or provide day care shall be open to inspection by any person at all reasonable times.
- (6) A registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any condition imposed on his registration shall be guilty of an offence.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

- F9** S. 79F inserted (16.3.2001 (E.) for certain purposes and 1.7.2001 (W.) for certain purposes and otherwise (W.) 1.4.2002, and 2.7.2001 (E.) in so far as not already in force) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(iii)(iv); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F10** Words in s. 79F(1)(2) inserted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, Sch. 4 para. 3(2)(a); S.I. 2005/2298, art. 2(1) (subject to art. 2(2)); S.I. 2006/885, art. 2(2)(c)
- F11** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, Sch. 2 para. 6; S.I. 2008/2261, art. 2 (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F12** S. 79F(1)(b)(2)(b) and preceding word repealed (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 3(2)(b), Sch. 5 Pt. 2; S.I. 2005/2298, art. 2(1) (subject to art. 2(2)); S.I. 2006/885, art. 2(2)(c)

#### <sup>F13</sup>79G Cancellation of registration.

- (1) [<sup>F14</sup>the Assembly] may cancel the registration of any person if—
- (a) in the case of a person registered for child minding, [<sup>F14</sup>the Assembly] is of the opinion that the person has ceased or will cease to be qualified for registration for child minding;
- (b) in the case of a person registered for providing day care on any premises, [<sup>F14</sup>the Assembly] is of the opinion that the person has ceased or will cease to be qualified for registration for providing day care on those premises,
- or if [<sup>F15</sup>a fee] which is due from the person has not been paid.

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- (2) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a registered person <sup>F16</sup> . . . , his registration shall not be cancelled on the ground of any defect or insufficiency in the services, equipment or premises if—
- (a) the time set for complying with the requirements has not expired; and
  - (b) it is shown that the defect or insufficiency is due to the changes or additions not having been made.
- (3) Any cancellation under this section must be in writing.

#### Textual Amendments

- F13** S. 79G inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F14** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, Sch. 2 para. 6; S.I. 2008/2261, art. 2 (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F15** Words in s. 79G(1) substituted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, Sch. 4 para. 4(1); S.I. 2005/2298, art. 2(1) (subject to art. 2(2)); S.I. 2006/885, art. 2(2)(c)
- F16** Words in s. 79G(2) repealed (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 2(2), Sch. 5 Pt. 2; S.I. 2005/394, art. 2(1)(k)(m); S.I. 2006/885, art. 2(2)(c)

#### <sup>F17</sup>79H Suspension of registration.

- (1) Regulations may provide for the registration of any person for acting as a child minder or providing day care to be suspended for a prescribed period by [<sup>F18</sup>the Assembly] in prescribed circumstances.
- (2) Any regulations made under this section shall include provision conferring on the person concerned a right of appeal to the Tribunal against suspension.

[<sup>F19</sup>(3) <sup>F20</sup> . . . . .]

- (4) A person registered under this Part for child minding by the Assembly shall not act as a child minder in Wales at a time when that registration is so suspended.
- (5) A person registered under this Part for providing day care on any premises shall not provide day care on those premises at any time when that registration is so suspended.
- (6) If any person contravenes subsection (3), (4) or (5) without reasonable excuse, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

#### Textual Amendments

- F17** S. 79H inserted ((E.) 16.3.2001 for certain purposes and otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes and otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(v); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F18** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, Sch. 2 para. 6; S.I. 2008/2261, art. 2 (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F19** S. 79H(3)-(6) inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 2 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. 1

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**F20** Words in s. 79H(3) omitted (1.9.2008) by virtue of the [Childcare Act 2006 \(c. 21\), ss. 103\(1\), 109, Sch. 2 para. 10](#) and repealed (1.9.2008 for E. and otherwise prosp.) by [Childcare Act 2006 \(c. 21\), ss. 103\(2\), 109, Sch. 3 Pt. 2; S.I. 2008/2261, art. 2](#) (with [art. 3 Sch. 1](#) and [art. 4 Sch. 2](#))

### **F21 79J Resignation of registration.**

- (1) A person who is registered for acting as a child minder or providing day care may by notice in writing to [<sup>F22</sup>the Assembly] resign his registration.
- (2) But a person may not give a notice under subsection (1)—
  - (a) if [<sup>F22</sup>the Assembly] has sent him a notice under section 79L(1) of its intention to cancel the registration, unless [<sup>F22</sup>the Assembly] has decided not to take that step; or
  - (b) if [<sup>F22</sup>the Assembly] has sent him a notice under section 79L(5) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.

#### **Textual Amendments**

**F21** S. 79J inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by [2000 c. 14, s. 79\(1\); S.I. 2001/2041, art. 2\(1\)\(a\)](#) (with transitional provisions and savings in [Sch.](#)); [S.I. 2002/920, art. 3\(3\)\(b\)](#) (subject to transitional provisions in [Schs. 1-3](#))

**F22** Words in Pt. XA substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\), ss. 103\(1\), 109, Sch. 2 para. 6; S.I. 2008/2261, art. 2](#) (with [art. 3 Sch. 1](#) and [art. 4 Sch. 2](#))

### **F23 79K Protection of children in an emergency.**

- (1) If, in the case of any person registered [<sup>F24</sup>under this Part] for acting as a child minder or providing day care—
  - (a) [<sup>F25</sup>the Assembly] applies to a justice of the peace for an order—
    - (i) cancelling the registration;
    - (ii) varying or removing any condition to which the registration is subject; or
    - (iii) imposing a new condition; and
  - (b) it appears to the justice that a child who is being, or may be, looked after by that person, or (as the case may be) in accordance with the provision for day care made by that person, is suffering, or is likely to suffer, significant harm, the justice may make the order.
- (2) The cancellation, variation, removal or imposition shall have effect from the time when the order is made.
- (3) An application under subsection (1) may be made without notice.
- (4) An order under subsection (1) shall be made in writing.
- (5) Where an order is made under this section, [<sup>F25</sup>the Assembly] shall serve on the registered person, as soon as is reasonably practicable after the making of the order—
  - (a) a copy of the order;
  - (b) a copy of any written statement of [<sup>F25</sup>the Assembly]’s reasons for making the application for the order which supported that application; and

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- (c) notice of any right of appeal conferred by section 79M.
- (6) Where an order has been so made, [<sup>F25</sup>the Assembly] shall, as soon as is reasonably practicable after the making of the order, notify the local authority in whose area the person concerned acts or acted as a child minder, or provides or provided day care, of the making of the order.

#### Textual Amendments

- F23** S. 79K inserted (2.7.2001 for certain purposes for E. and otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(3) (with transitional provisions and savings in Sch.); S.I. 2002/839, art. 2(b); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F24** Words in s. 79K(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, Sch. 2 para. 11; S.I. 2008/2261, art. 2 (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F25** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, Sch. 2 para. 6; S.I. 2008/2261, art. 2 (with art. 3 Sch. 1 and art. 4 Sch. 2)

#### <sup>F26</sup>79L Notice of intention to take steps.

- (1) Not less than 14 days before—
- (a) refusing an application for registration;
  - (b) cancelling a registration;
  - (c) removing or varying any condition to which a registration is subject or imposing a new condition; or
  - (d) refusing to grant an application for the removal or variation of any condition to which a registration is subject,
- [<sup>F27</sup>the Assembly] shall send to the applicant, or (as the case may be) registered person, notice in writing of its intention to take the step in question.
- (2) Every such notice shall—
- (a) give [<sup>F27</sup>the Assembly]’s reasons for proposing to take the step; and
  - (b) inform the person concerned of his rights under this section.
- (3) Where the recipient of such a notice informs [<sup>F27</sup>the Assembly] in writing of his desire to object to the step being taken, [<sup>F27</sup>the Assembly] shall afford him an opportunity to do so.
- (4) Any objection made under subsection (3) may be made orally or in writing, by the recipient of the notice or a representative.
- (5) If [<sup>F27</sup>the Assembly] , after giving the person concerned an opportunity to object to the step being taken, decides nevertheless to take it, it shall send him written notice of its decision.
- (6) A step of a kind mentioned in subsection (1)(b) or (c) shall not take effect until the expiry of the time within which an appeal may be brought under section 79M or, where such an appeal is brought, before its determination.
- (7) Subsection (6) does not prevent a step from taking effect before the expiry of the time within which an appeal may be brought under section 79M if the person concerned notifies [<sup>F27</sup>the Assembly] in writing that he does not intend to appeal.

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#### Textual Amendments

- F26** S. 79L inserted (2.7.2001 for certain purposes for E. and otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(3)(c) (with transitional provisions and savings in Sch.); S.I. 2002/839, art. 2(c); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F27** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, Sch. 2 para. 6; S.I. 2008/2261, art. 2 (with art. 3 Sch. 1 and art. 4 Sch. 2)

#### Modifications etc. (not altering text)

- C1** S. 79L applied (with modifications) (25.3.2003) (E.) by The Tax Credits (Approval of Home Child Care Providers) Scheme 2003 (S.I. 2003/463), {arts. 11, 12}

#### <sup>F28</sup>79M Appeals.

- (1) An appeal against—
- the taking of any step mentioned in section 79L(1); <sup>F29</sup> . . .
  - an order under section 79K, [<sup>F30</sup> or
  - a determination made by [<sup>F31</sup> the Assembly] under this Part (other than one falling within paragraph (a) or (b)) which is of a prescribed description,]
- shall lie to the Tribunal.
- (2) On an appeal, the Tribunal may—
- confirm the taking of the step or the making of the order [<sup>F32</sup> or determination] or direct that it shall not have, or shall cease to have, effect; and
  - impose, vary or cancel any condition.

#### Textual Amendments

- F28** S. 79M inserted (1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2002/839, art. 2(d); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F29** Word in s. 79M(1) repealed (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, ss. 215(2), 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Pt. 1
- F30** S. 79M(1)(c) and preceding word inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 3(2) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F31** Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, Sch. 2 para. 6; S.I. 2008/2261, art. 2 (with art. 3 Sch. 1 and art. 4 Sch. 2)
- F32** Words in s.79M(2)(a) inserted (1.10.2002 for E. 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 3(3) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. 1

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