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# Childcare Act 2006

## 2006 CHAPTER 21

### PART 3

#### REGULATION OF PROVISION OF CHILDCARE IN ENGLAND

### CHAPTER 5

#### COMMON PROVISIONS

#### *Cancellation of registration etc.*

VALID FROM 06/04/2007

#### **68 Cancellation of registration**

- (1) The Chief Inspector must cancel the registration of a person registered under Chapter 2, 3 or 4 if it appears to him that the person has become disqualified from registration by regulations under section 75.
- (2) The Chief Inspector may cancel the registration of a person registered under Chapter 2, 3 or 4 if it appears to him—
  - (a) that the prescribed requirements for registration which apply in relation to the person's registration under that Chapter have ceased, or will cease, to be satisfied,
  - (b) that the person has failed to comply with a condition imposed on his registration under that Chapter,
  - (c) that he has failed to comply with a requirement imposed on him by regulations under that Chapter,
  - (d) in the case of a person registered under Chapter 2, that he has failed to comply with section 40(2)(a), or
  - (e) in any case, that he has failed to pay a prescribed fee.

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- (3) The Chief Inspector may cancel the registration of a person registered as an early years childminder under Chapter 2 if it appears to him that the person has not provided early years childminding for a period of more than three years during which he was registered.
- (4) The Chief Inspector may cancel the registration of a person registered as a later years childminder under Chapter 3 if it appears to him that the person has not provided later years childminding for a period of more than three years during which he was registered.
- (5) The Chief Inspector may cancel the registration of a person registered as a childminder under Chapter 4 if it appears to him that the person has provided neither early years childminding nor later years childminding for a period of more than three years during which he was registered.
- (6) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a person registered under Chapter 2, 3 or 4, his registration may 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.

#### Commencement Information

**II** S. 68 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

## 69 Suspension of registration

- (1) Regulations may provide for the registration of a person registered under Chapter 2, 3 or 4 to be suspended for a prescribed period in prescribed circumstances.
- (2) Regulations under subsection (1) must include provision conferring on the registered person a right of appeal to the Tribunal against suspension.
- (3) A person registered as an early years childminder under Chapter 2 may not provide early years childminding in England at any time when his registration under that Chapter is suspended in accordance with regulations under this section.
- (4) A person registered as a later years childminder under Chapter 3 may not provide later years childminding in England, for a child who has not attained the age of eight, at any time when his registration under that Chapter is suspended in accordance with regulations under this section.
- (5) Subsection (3) or (4) does not apply in relation to early years childminding or (as the case may be) later years childminding which the person may provide without being registered under Chapter 2 or 3.
- (6) A person registered as an early years provider (other than an early years childminder) under Chapter 2 may not provide early years provision on premises in England at any time when his registration under that Chapter in respect of the premises is suspended in accordance with regulations under this section.

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- (7) A person registered as a later years provider (other than a later years childminder) under Chapter 3 may not provide later years provision on premises in England, for a child who has not attained the age of eight, at any time when his registration under that Chapter in respect of the premises is suspended in accordance with regulations under this section.
- (8) Subsection (6) or (7) does not apply in relation to early years provision or (as the case may be) later years provision which the person may provide without being registered under Chapter 2 or 3.
- (9) A person commits an offence if, without reasonable excuse, he contravenes subsection (3), (4), (6) or (7).
- (10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) In this Part, “the Tribunal” means the Tribunal established by section 9 of the Protection of Children Act 1999 (c. 14).

#### Commencement Information

**I2** S. 69 in force at 20.12.2006 for specified purposes by [S.I. 2006/3360](#), **art. 2(d)**

VALID FROM 06/04/2007

#### **70** Voluntary removal from register

- (1) A person registered under any of Chapters 2 to 4 may give notice to the Chief Inspector that he wishes to be removed from the early years register or (as the case may be) from Part A or B of the general childcare register.
- (2) If a person gives notice under subsection (1) the Chief Inspector must remove him from the early years register or (as the case may be) from the relevant Part of the general childcare register.
- (3) The Chief Inspector must not act under subsection (2) if—
  - (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(2)) of his intention to cancel his registration, and
  - (b) the Chief Inspector has not decided that he no longer intends to take that step.
- (4) The Chief Inspector must not act under subsection (2) if—
  - (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(7)) of his decision to cancel his registration, and
  - (b) the time within which an appeal under section 74 may be brought has not expired or, if such an appeal has been brought, it has not been determined.
- (5) Subsections (3) and (4) do not apply if the person is seeking removal from Part B of the general childcare register.

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**Commencement Information**

**I3** S. 70 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

**71 Termination of voluntary registration on expiry of prescribed period**

Regulations may make provision requiring the Chief Inspector to remove a registered person from Part B of the general childcare register on the expiry of a prescribed period of time from the date of his registration.

**Commencement Information**

**I4** S. 71 in force at 20.12.2006 by [S.I. 2006/3360](#), [art. 2\(e\)](#)

VALID FROM 06/04/2007

*Cancellation etc. in an emergency*

**72 Protection of children in an emergency**

- (1) In relation to a person registered under Chapter 2, 3 or 4, the Chief Inspector may apply to a justice of the peace for an order—
  - (a) cancelling the person's registration;
  - (b) varying or removing a condition to which his registration is subject;
  - (c) imposing a new condition on his registration.
- (2) If it appears to the justice that a child for whom early years provision or later years provision is being or may be provided by that person is suffering or is likely to suffer significant harm, the justice may make the order.
- (3) An application under subsection (1) may be made without notice.
- (4) An order under subsection (2)—
  - (a) must be made in writing, and
  - (b) has effect from the time when it is made.
- (5) If an order is made under subsection (2), the Chief Inspector must 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 in support of the application for the order, and
  - (c) notice of any right of appeal conferred by section 74.
- (6) The documents mentioned in subsection (5) may be served on the registered person by—
  - (a) delivering them to him, or
  - (b) sending them by post.

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- (7) For the purposes of this section, “harm” has the same meaning as in the Children Act 1989 (c. 41) and the question of whether harm is significant is to be determined in accordance with section 31(10) of that Act.

#### Commencement Information

**I5** S. 72 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

### Registration – procedural safeguards

VALID FROM 06/04/2007

#### 73 Procedure for taking certain steps

- (1) This section applies if the Chief Inspector proposes to take any of the following steps under this Part—
- refuse an application for registration;
  - impose a new condition on a person's registration;
  - vary or remove any condition imposed on a person's registration;
  - refuse to grant an application for the variation or removal of any such condition;
  - cancel a person's registration.
- (2) The Chief Inspector must give to the applicant or (as the case may be) the registered person notice of his intention to take the step in question.
- (3) The notice must—
- give the Chief Inspector's reasons for proposing to take the step, and
  - inform the person concerned of his rights under this section.
- (4) The Chief Inspector may not take the step until the end of the period of 14 days beginning with the day on which he gives notice under subsection (2) unless the applicant or (as the case may be) the registered person notifies the Chief Inspector that he does not wish to object to the step being taken.
- (5) If the recipient of a notice under subsection (2) (“the recipient”) gives notice to the Chief Inspector that he wishes to object to the step being taken, the Chief Inspector must give him an opportunity to object before deciding whether to take the step.
- (6) An objection made in pursuance of subsection (5) may be made orally or in writing and in either case may be made by the recipient or his representative.
- (7) If the Chief Inspector decides to take the step, he must give the recipient notice of his decision (whether or not the recipient informed the Chief Inspector that he wished to object to the step being taken).
- (8) The taking of a step mentioned in paragraph (b), (c) or (e) of subsection (1) does not have effect until—
- the expiry of the time within which an appeal may be brought under section 74, or

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- (b) if such an appeal is brought, the time when the appeal is determined (and the taking of the step is confirmed).
- (9) Subsection (8) does not prevent such a step having effect before the expiry of the time within which an appeal may be brought if the person concerned notifies the Chief Inspector that he does not intend to appeal.
- (10) If the Chief Inspector gives notice to an applicant for registration under Chapter 2 or 3 that he intends to refuse his application, the application may not be withdrawn without the consent of the Chief Inspector.
- (11) In this section and in section 74, “a new condition” means a condition imposed otherwise than at the time of the person's registration.

#### Commencement Information

**I6** S. 73 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

## 74 Appeals

- (1) An applicant for registration or (as the case may be) a registered person may appeal to the Tribunal against the taking of any of the following steps by the Chief Inspector under this Part—
  - (a) the refusal of his application for registration;
  - (b) the imposition of a new condition on his registration;
  - (c) the variation or removal of any condition imposed on his registration;
  - (d) the refusal of an application to vary or remove any such condition;
  - (e) the cancellation of his registration.
- (2) An applicant for registration or (as the case may be) a registered person may also appeal to the Tribunal against any other determination made by the Chief Inspector under this Part which is of a prescribed description.
- (3) A person against whom an order is made under section 72(2) may appeal to the Tribunal against the making of the order.
- (4) On an appeal the Tribunal must either—
  - (a) confirm the taking of the step, the making of the other determination or the making of the order (as the case may be), or
  - (b) direct that it shall not have, or shall cease to have, effect.
- (5) Unless the Tribunal has confirmed the taking of a step mentioned in subsection (1)(a) or (e) or the making of an order under section 72(2) cancelling a person's registration, the Tribunal may also do either or both of the following—
  - (a) impose conditions on the registration of the person concerned;
  - (b) vary or remove any condition previously imposed on his registration.

#### Commencement Information

**I7** S. 74 in force at 20.12.2006 for specified purposes by [S.I. 2006/3360](#), [art. 2\(d\)](#)

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### *Disqualification from registration*

## **75 Disqualification from registration**

- (1) In this section, “registration” means registration under Chapters 2, 3 and 4.
- (2) Regulations may provide for a person to be disqualified from registration.
- (3) The regulations may, in particular, provide for a person to be disqualified from registration if—
  - (a) he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14);
  - (b) he is subject to a direction under section 142 of the Education Act 2002 (c. 32) on the grounds that he is unsuitable to work with children or on grounds relating to his health;
  - (c) an order of a prescribed kind has been made at any time with respect to him;
  - (d) an order of a prescribed kind has been made at any time with respect to a child who has been in his care;
  - (e) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;
  - (f) he has at any time been refused registration under Chapter 2, 3 or 4 of this Part of this Act or under Part 10 or Part 10A of the Children Act 1989 (c. 41) or any prescribed enactment, or had any such registration cancelled;
  - (g) he has been convicted of an offence of a prescribed kind or has been discharged absolutely or conditionally for such an offence;
  - (h) he has been given a caution in respect of an offence of a prescribed kind;
  - (i) he has at any time been disqualified from fostering a child privately (within the meaning of the Children Act 1989 (c. 41));
  - (j) a prohibition has been imposed on him at any time under section 69 of the Children Act 1989, section 10 of the Foster Children (Scotland) Act 1984 (c. 56) or any prescribed enactment;
  - (k) his rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.
- (4) Regulations may provide for a person to be disqualified from registration if—
  - (a) he lives in the same household as another person who is disqualified from registration, or
  - (b) he lives in a household in which any such person is employed.
- (5) Regulations under subsection (2) or (4) may provide for a person not to be disqualified from registration (and in particular may provide for a person not to be disqualified from registration for the purposes of section 76) by reason of any fact which would otherwise cause him to be disqualified if—
  - (a) he has disclosed the fact to the Chief Inspector, and
  - (b) the Chief Inspector has consented in writing to the person's not being disqualified from registration and has not withdrawn his consent.
- (6) In this section—
  - ‘ “caution” includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998 (c. 37);

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“enactment” means any enactment having effect at any time in any part of the United Kingdom.

- (7) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of this section.

#### Commencement Information

**18** S. 75 in force at 20.12.2006 by [S.I. 2006/3360, art. 2\(e\)](#)

VALID FROM 01/09/2008

## 76 Consequences of disqualification

- (1) This section applies to—
- (a) early years provision in respect of which the provider is required by section 33(1) or 34(1) to be registered,
  - (b) early years provision in respect of which, but for section 34(2), the provider would be required to be registered,
  - (c) later years provision in respect of which the provider is required by section 52(1) or 53(1) to be registered, and
  - (d) later years provision in respect of which, but for section 53(2), the provider would be required to be registered.
- (2) A person who is disqualified from registration by regulations under section 75 must not—
- (a) provide early years or later years provision to which this section applies, or
  - (b) be directly concerned in the management of early years or later years provision to which this section applies.
- (3) No person may employ, in connection with the provision of early years or later years provision to which this section applies, a person who is disqualified from registration by regulations under section 75.
- (4) A person who contravenes subsection (2) or (3) commits an offence.
- (5) A person who contravenes subsection (2) is not guilty of an offence under subsection (4) if—
- (a) he is disqualified from registration by virtue only of regulations under section 75(4), and
  - (b) he proves that he did not know, and had no reasonable grounds for believing, that he was living—
    - (i) in the same household as a person who was disqualified from registration, or
    - (ii) in a household in which such a person was employed.
- (6) A person who contravenes subsection (3) is not guilty of an offence under subsection (4) if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified from registration.



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- (7) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 5 on the standard scale, or to both.
- (8) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference in subsection (7) to 51 weeks is to be read as a reference to 6 months.

VALID FROM 06/04/2007

### *Rights of entry*

#### **77 Powers of entry**

- (1) <sup>F1</sup>... the Chief Inspector may at any reasonable time enter any premises in England if he has reasonable cause to believe that early years provision or later years provision is being provided on the premises in breach of section 33(1), 34(1), 52(1) or 53(1).
- (2) <sup>F2</sup>... the Chief Inspector may at any reasonable time enter any premises in England on which early years provision or later years provision in respect of which a person is registered under this Part is being provided—
  - (a) for the purpose of conducting an inspection under section 49 or 60, or
  - (b) for the purpose of determining whether any conditions or requirements imposed by or under this Part are being complied with.
- (3) [<sup>F3</sup>An authorisation given by the Chief Inspector under paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 in relation to his functions] under subsection (1) or (2)—
  - (a) may be given for a particular occasion or period;
  - (b) may be given subject to conditions.
- (4) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b))—
  - (a) inspect the premises;
  - (b) inspect, and take copies of—
    - (i) any records kept by the person providing the childcare, and
    - (ii) any other documents containing information relating to that provision;
  - (c) seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;
  - (d) take measurements and photographs or make recordings;
  - (e) inspect any children being cared for there, and the arrangements made for their welfare;
  - (f) interview in private the childcare provider;
  - (g) interview in private any person caring for children, or living or working, on the premises who consents to be interviewed.

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- (5) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b)) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under this section.
- (6) Section 58 of the Education Act 2005 (c. 18) (inspection of computer records for the purposes of Part 1 of that Act) applies for the purposes of this section as it applies for the purposes of Part 1 of that Act.
- <sup>F4</sup>(7) .....
- (8) A person commits an offence if he intentionally obstructs a person exercising any power under this section.
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (10) In this section, “documents” and “records” each include information recorded in any form.

#### Textual Amendments

- F1** Words in s. 77(1) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 113\(2\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F2** Words in s. 77(2) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 113\(2\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F3** Word in s. 77(3) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 113\(3\)](#); S.I. 2007/935, art. 5(gg)
- F4** S. 77(7) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 113\(4\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)

#### Commencement Information

- I9** S. 77 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

## 78 Requirement for consent to entry

- (1) This section applies where a person (“the authorised person”) proposes to enter domestic premises in pursuance of—
- (a) provision made by virtue of section 42(1) and (4) in a learning and development order specifying assessment arrangements in relation to early years provision, or
  - (b) a power of entry conferred by section 77(2).
- (2) If the authorised person has reasonable cause to believe—
- (a) that the premises are not the home of the person providing the early years or later years provision, or
  - (b) that the premises are the home of a child for whom the early years or later years provision is provided,
- the authorised person may not enter the premises without the consent of an adult who is an occupier of the premises.

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- (3) Subsection (2) does not prevent the imposition under section 38, 58 or 66 of a condition requiring a person registered under Chapter 2, 3 or 4 to secure that the occupier of any premises on which the registered person provides early years provision or later years provision gives any consent required by that subsection.
- (4) In this section—
- “a learning and development order” means an order under section 39(1)
  - (a);
  - “occupier” does not include the person providing the early years or later years provision.

#### Commencement Information

**I10** S. 78 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

### 79 Power of constable to assist in exercise of powers of entry

- (1) [<sup>F5</sup>The Chief Inspector] may apply to a court for a warrant under this section.
- (2) If it appears to the court that the [<sup>F6</sup> Chief Inspector]—
- (a) has attempted to exercise a power conferred on him by section 77 but has been prevented from doing so, or
  - (b) is likely to be prevented from exercising any such power,
- the court may issue a warrant authorising any constable to assist [<sup>F7</sup>the Chief Inspector ] in the exercise of the power, using reasonable force if necessary.
- (3) A warrant issued under this section must be addressed to, and executed by, a constable.
- (4) Schedule 11 to the Children Act 1989 (c. 41) (jurisdiction of courts) applies in relation to proceedings under this section as if they were proceedings under that Act.
- (5) In this section, “court” means the High Court, a county court or a magistrates' court but this is subject to any provision which may be made (by virtue of subsection (4)) by or under Schedule 11 to the Children Act 1989.

#### Textual Amendments

- F5** Words in s. 79(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 114\(2\)](#); [S.I. 2007/935](#), art. 5(gg)
- F6** Words in s. 79(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 114\(3\)\(a\)](#); [S.I. 2007/935](#), art. 5(gg)
- F7** Words in s. 79(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 114\(3\)\(b\)](#); [S.I. 2007/935](#), art. 5(gg)

#### Commencement Information

**I11** S. 79 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

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*Reports and information*

PROSPECTIVE

VALID FROM 29/04/2013

**<sup>F8</sup>80 Combined reports**

.....

**Textual Amendments**  
**F8** S. 80 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 115, [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)

PROSPECTIVE

VALID FROM 29/04/2013

**<sup>F9</sup>81 Information to be included in annual reports**

.....

**Textual Amendments**  
**F9** S. 81 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 116, [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)

VALID FROM 06/04/2007

**82 Supply of information to Chief Inspector**

The Chief Inspector may at any time require any person registered under this Part to provide him with any information connected with the person's activities as an early years provider or later years provider which the Chief Inspector considers it necessary to have for the purposes of his functions under this Part.

**Commencement Information**  
**I12** S. 82 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

*Status: Point in time view as at 01/04/2007. This version of this chapter contains provisions that are not valid for this point in time.*

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### **83 Supply of information to HMRC and local authorities**

- (1) The Chief Inspector must provide prescribed information to Her Majesty's Revenue and Customs, and the relevant local authority, if he takes any of the following steps under this Part—
  - (a) grants a person's application for registration;
  - (b) gives notice of his intention to cancel a person's registration;
  - (c) cancels a person's registration;
  - (d) suspends a person's registration;
  - (e) removes a person from the register at that person's request.
- (2) The Chief Inspector must also provide prescribed information to Her Majesty's Revenue and Customs, and the relevant local authority, if an order is made under section 72(2).
- (3) The information which may be prescribed for the purposes of this section is—
  - (a) in the case of information to be provided to Her Majesty's Revenue and Customs, information which Her Majesty's Revenue and Customs may require for the purposes of their functions in relation to tax credits;
  - (b) in the case of information to be provided to the relevant local authority, information which would assist the local authority in the discharge of their functions under section 12.
- (4) In this section, “the relevant local authority” means the English local authority for the area in which the person provides (or, as the case may be, has provided) the early years provision or later years provision in respect of which he is (or was) registered.

#### **Commencement Information**

**I13** S. 83 in force at 20.12.2006 for specified purposes by [S.I. 2006/3360](#), [art. 2\(d\)](#)

### **84 Disclosure of information for certain purposes**

- (1) The Chief Inspector may arrange for prescribed information held by him in relation to persons registered under this Part to be made available for the purpose of—
  - (a) assisting parents or prospective parents in choosing an early years or later years provider, or
  - (b) protecting children from harm or neglect.
- (2) The information may be made available in such manner and to such persons as the Chief Inspector considers appropriate.
- (3) Regulations may require the Chief Inspector to provide prescribed information held by him in relation to persons registered under this Part to prescribed persons for either of the purposes mentioned in subsection (1).

#### **Commencement Information**

**I14** S. 84 in force at 20.12.2006 for specified purposes by [S.I. 2006/3360](#), [art. 2\(d\)](#)

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VALID FROM 06/04/2007

### *Offences and criminal proceedings*

#### **85 Offence of making false or misleading statement**

- (1) A person commits an offence if, in an application for registration under any of Chapters 2 to 4, he knowingly makes a statement which is false or misleading in a material particular.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

##### **Commencement Information**

**I15** S. 85 in force at 6.4.2007 by [S.I. 2007/1019, art. 4](#)

#### **86 Time limit for proceedings**

- (1) Proceedings for an offence under this Part or regulations made under it may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings comes to his knowledge.
- (2) No such proceedings may be brought by virtue of subsection (1) more than three years after the commission of the offence.

##### **Commencement Information**

**I16** S. 86 in force at 6.4.2007 by [S.I. 2007/1019, art. 4](#)

#### **87 Offences by bodies corporate**

- (1) This section applies where any offence under this Part is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

##### **Commencement Information**

**I17** S. 87 in force at 6.4.2007 by [S.I. 2007/1019, art. 4](#)

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## **88 Unincorporated associations**

- (1) Proceedings for an offence under this Part which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in the name of any of its members).
- (2) For the purpose of any such proceedings, rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (3) In proceedings for an offence under this Part brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure) apply as they do in relation to a body corporate.
- (4) A fine imposed on an unincorporated association on its conviction of an offence under this Part is to be paid out of the funds of the association.
- (5) If an offence under this Part by an unincorporated association is shown—
  - (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
  - (b) to be attributable to any neglect on the part of such an officer or member, the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

### **Commencement Information**

**I18** S. 88 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

## *Miscellaneous*

## **89 Fees**

- (1) Regulations may require persons registered under any of Chapters 2 to 4 to pay to the Chief Inspector at or by prescribed times fees of the prescribed amounts in respect of the discharge by the Chief Inspector of his functions under this Part.
- (2) Regulations under subsection (1) may prescribe circumstances in which—
  - (a) the amount of a fee payable under the regulations may be varied in accordance with the regulations;
  - (b) a fee payable under the regulations may be waived.

### **Commencement Information**

**I19** S. 89 in force at 20.12.2006 by [S.I. 2006/3360](#), [art. 2\(e\)](#)

## **90 Cases where consent to disclosure withheld**

- (1) This section applies where the Chief Inspector—
  - (a) is determining, for the purpose of deciding whether to grant an application for registration under Chapter 2, 3 or 4, whether the prescribed requirements for registration are satisfied and are likely to be continued to be satisfied, or

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- (b) is determining, for the purpose of deciding whether to cancel the registration of any person under section 68(2)(a), whether the prescribed requirements for registration have ceased, or will cease, to be satisfied.
- (2) The Chief Inspector may, if regulations so provide and he thinks it appropriate to do so, treat the prescribed requirements for registration as not being satisfied or (as the case may be) as having ceased to be satisfied if for the purpose of his determination—
- (a) the Chief Inspector has requested a person (“A”) to consent to the disclosure by another person (“B”) to the Chief Inspector of information which—
    - (i) relates to A,
    - (ii) is held by B, and
    - (iii) is of a prescribed description, and
  - (b) A does not give his consent or withdraws his consent after giving it.

**Commencement Information**

**I20** S. 90 in force at 20.12.2006 for specified purposes by [S.I. 2006/3360](#), [art. 2\(d\)](#)

VALID FROM 06/04/2007

**91 Co-operation between authorities**

- (1) If it appears to the Chief Inspector that any English local authority could, by taking any specified action, help in the exercise of any of his functions under this Part, he may request the help of the authority, specifying the action in question.
- (2) An authority whose help is requested must comply with the request if it is compatible with their own statutory and other duties and does not unduly prejudice the discharge of any of their functions.

**Commencement Information**

**I21** [S. 91](#) in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

**92 Combined certificates of registration**

- (1) This section applies if the Chief Inspector is required by virtue of this Part to issue more than one certificate of registration to a person.
- (2) If the Chief Inspector considers it appropriate, he may combine any two or more of those certificates in a single certificate (a combined certificate).
- (3) A combined certificate of registration must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a combined certificate of registration, the Chief Inspector must give the registered person an amended combined certificate.



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- (5) If the Chief Inspector is satisfied that a combined certificate of registration has been lost or destroyed, the Chief Inspector must give the registered person a copy, on payment by that person of any prescribed fee.

#### Commencement Information

**I22** S. 92 in force at 20.12.2006 for specified purposes by S.I. 2006/3360, art. 2(d)

VALID FROM 06/04/2007

### 93 Notices

- (1) This section applies in relation to notices required or authorised to be given to any person by any of the following—
- section 57(1) and (2);
  - section 65(1) and (2);
  - section 70(1);
  - section 73(2), (4), (5), (7) and (9).
- (2) The notice may be given to the person in question—
- by delivering it to him,
  - by sending it by post, or
  - subject to subsection (3), by transmitting it electronically.
- (3) If the notice is transmitted electronically, it is to be treated as given only if the requirements of subsection (4) or (5) are met.
- (4) If the person required or authorised to give the notice is the Chief Inspector—
- the person to whom the notice is required or authorised to be given must have indicated to the Chief Inspector his willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose, and
  - the notice must be sent to the address provided by him.
- (5) If the person required or authorised to give the notice is not the Chief Inspector, the notice must be transmitted in such manner as the Chief Inspector may require.
- (6) An indication given for the purposes of subsection (4) may be given generally for the purposes of notices required or authorised to be given by the Chief Inspector under this Part or may be limited to notices of a particular description.
- (7) A requirement imposed by the Chief Inspector under subsection (5) must be published in such manner as the Chief Inspector thinks appropriate for the purpose of bringing it to the attention of persons who are likely to be affected by it.
- (8) In relation to the taking of a step mentioned in subsection (1)(b) or (c) of section 73, notification authorised to be given to the Chief Inspector under subsection (4) or (9) of that section may be given orally to a person authorised by the Chief Inspector to receive such notification (as well as by any of the methods mentioned in subsection (2)).

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**Commencement Information**

**I23** S. 93 in force at 6.4.2007 by [S.I. 2007/1019, art. 4](#)

VALID FROM 06/04/2007

**94 Power to amend Part 3: applications in respect of multiple premises**

The Secretary of State may by order—

- (a) amend this Part so as to enable an application for registration under section 36(1), 55(1) or 63(1) to be made in respect of more than one set of premises, and
- (b) make such further amendments of this Part as appear to him to be necessary or expedient in consequence of the amendments made by virtue of paragraph (a).

**Commencement Information**

**I24** S. 94 in force at 6.4.2007 by [S.I. 2007/1019, art. 4](#)

VALID FROM 01/09/2008

**95 Certain institutions not to be regarded as schools**

- (1) Section 4 of the Education Act 1996 (c. 56) (schools: general) is amended as follows.
- (2) In subsection (1) after “In this Act” insert “ (subject to subsection (1A)) ”.
- (3) After subsection (1) insert—
  - “(1A) An institution which—
    - (a) provides only early years provision (as defined by section 96(2) of the Childcare Act 2006), and
    - (b) is not a maintained nursery school, is not a school.”

*Interpretation*

**96 Meaning of early years and later years provision etc.**

- (1) This section applies for the purposes of this Part.
- (2) “Early years provision” means the provision of childcare for a young child.
- (3) “Early years provider” means a person who provides early years provision.

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- (4) Subject to subsection (5), “early years childminding” means early years provision on domestic premises for reward (and “early years childminder” is to be read accordingly).
- (5) Early years provision on domestic premises for reward is not early years childminding if at any time the number of persons providing the early years provision on the premises or assisting with the provision exceeds three.
- (6) “Later years provision”, in relation to a child, means the provision of childcare at any time during the period—
  - (a) beginning with the 1st September next following the date on which he attains the age of five, and
  - (b) ending with such day as may be prescribed.
- (7) “Later years provider” means a person who provides later years provision.
- (8) Subject to subsection (9), “later years childminding” means later years provision on domestic premises for reward (and “later years childminder” is to be read accordingly).
- (9) Later years provision on domestic premises for reward is not later years childminding if at any time the number of persons providing the later years provision on the premises or assisting with the provision exceeds three.

#### Commencement Information

**I25** S. 96 in force at 20.12.2006 for specified purposes by [S.I. 2006/3360](#), [art. 2\(d\)](#)

VALID FROM 06/04/2007

#### 97 Employees not to be regarded as providing childcare

- (1) This section applies for the purposes of this Part.
- (2) Where an individual (“the employee”) is employed to care for a child by a person who provides early years provision or later years provision for the child, the employee is not to be regarded as providing early years provision or (as the case may be) later years provision by virtue of anything done by him in the course of that employment.

#### Commencement Information

**I26** S. 97 in force at 6.4.2007 by [S.I. 2007/1019](#), [art. 4](#)

#### 98 Interpretation of Part 3

- (1) In this Part—
  - “the Chief Inspector” means [<sup>F10</sup>Her Majesty's Chief Inspector of Education, Children's Services and Skills];
  - “childcare” has the meaning given by section 18;
  - “domestic premises” means premises which are used wholly or mainly as a private dwelling;

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- “early years provision” has the meaning given by section 96(2);
- “early years provider” has the meaning given by section 96(3);
- “early years childminding” and “early years childminder” have the meanings given by section 96(4);
- “later years provision” has the meaning given by section 96(6);
- “later years provider” has the meaning given by section 96(7);
- “later years childminding” and “later years childminder” have the meanings given by section 96(8);
- “premises” includes any area and any vehicle;
- “prescribed” means prescribed by regulations;
- “proprietor”, in relation to a school, has the same meaning as in the Education Act 1996 (c. 56);
- “regulations” means regulations made by the Secretary of State;
- “the Tribunal” has the meaning given by section 69(11);
- “young child” has the meaning given by section 19.

- (2) For the purposes of section 7 of the Interpretation Act 1978 (c. 30) (references to service by post), a notice or order which may by virtue of any provision of this Part be sent by post to an applicant for registration or to a registered person is to be treated as properly addressed if it is addressed to him at the address notified by him to the Chief Inspector as the address to which correspondence to him should be sent.

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#### **Textual Amendments**

**F10** Words in s. 98(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 117](#); [S.I. 2007/935](#), art. 5(gg)

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#### **Commencement Information**

**I27** S. 98 in force at 20.12.2006 by [S.I. 2006/3360](#), art. 2(e)

**Status:**

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