

STATUTORY INSTRUMENTS

2008 No. 976

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Childcare (Early Years and General Childcare
Registers) (Common Provisions) Regulations 2008**

<i>Made</i>	- - - -	<i>31st March 2008</i>
<i>Laid before Parliament</i>		<i>11th April 2008</i>
<i>Coming into force</i>	- -	<i>1st September 2008</i>

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 37(3), 56(3), 64(3), 69(1) and (2), 90(2), 92(3), 96(6) (b) and 104(2) of the Childcare Act 2006^{M1}:

Marginal Citations

M1 2006 c.21. See section 98(1) for the definitions of “prescribed” and “regulations”.

PART 1 **E+W**

General

Citation and commencement **E+W**

1. These Regulations may be cited as the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 and come into force on 1st September 2008.

Interpretation **E+W**

2. In these Regulations—

“the Act” means the Childcare Act 2006;

[^{F1}“additional premises application” means an application by the registered person to the relevant person for approval of the suitability of additional premises—

(a) under regulation 8A of the Early Years Foundation Stage (Welfare Requirements) Regulations 2012;

- (b) under paragraph 13ZA of Schedule 3 to the Childcare (General Childcare Register) Regulations 2008; or
- (c) under paragraph 14A of Schedule 6 to the Childcare (General Childcare Register) Regulations 2008;]

[^{F1}“additional premises” means premises which the relevant person has not already approved as suitable for the provision of childcare by the registered person;]

[^{F1}“approved premises” means premises that have been approved by the relevant person as suitable for the provision of childcare by the registered person at the time of registration or following an additional premises application;]

“registered person” means a person who is registered under Chapter 2 (regulation of early years provision), Chapter 3 (regulation of later years provision for children under 8) or Chapter 4 (voluntary registration) of the Act.

[^{F2}“relevant person” means the Chief Inspector or, if the registered person is registered with a childminder agency, the childminder agency.]

Textual Amendments

- F1** Words in [reg. 2](#) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), [regs. 1\(1\), 6\(2\)\(a\)](#)
- F2** Words in [reg. 2](#) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), [regs. 1\(1\), 6\(2\)\(b\)](#)

Prescribed day for the purposes of the definition of “later years provision” **E+W**

3. The day prescribed for the purposes of section 96(6)(b) of the Act is the day on which the child attains the age of 18.

[^{F3}Review **E+W**

3A. By 31st December 2020, and subsequently at intervals not exceeding 5 years from that date, the Secretary of State must, in accordance with section 30 of the Small Business, Enterprise and Employment Act 2015—

- (a) carry out a review of the amendments made by the Childcare (Miscellaneous Amendments) Regulations 2015 to these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.]

Textual Amendments

- F3** [Reg. 3A](#) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), [regs. 1\(1\), 6\(3\)](#)

PART 2 E+W

Disclosure of information

Power of Chief Inspector where consent to disclosure withheld E+W

4. The Chief Inspector^{M2} may, in the circumstances set out in section 90(2) of the Act, treat the prescribed requirements for registration as not being satisfied or (as the case may be) as having ceased to be satisfied.

Marginal Citations

M2 For the definition of “the Chief Inspector” see section 98(1) of the Childcare Act 2006, as amended by paragraph 117 of Schedule 14 to the [Education and Inspections Act 2006 \(c. 40\)](#).

Prescribed descriptions of information E+W

5.—(1) Information is of a prescribed description for the purposes of section 90(2)(a)(iii) if it falls within any of the descriptions set out in paragraph (2).

(2) The information—

- (a) confirms the identity of A^{M3};
- (b) is information about A contained in a criminal record certificate issued under section 113A of the Police Act 1997^{M4} or in an enhanced criminal record certificate issued under section 113B^{M5} of that Act;
- (c) confirms a relevant qualification claimed by A;
- (d) is information about the health of A held by a medical practitioner;
- (e) is information, other than information of a kind referred to in sub-paragraphs (a) to (d), about the character, employment record or other relevant experience of A held by—
 - (i) an educational institution currently or formerly attended by A,
 - (ii) an employer or former employer of A, or
 - (iii) a medical practitioner;
- (f) is information about the character of A held by the governing body or proprietor of a school which was or is attended by a child of A or a child for whom A has parental responsibility;
- (g) is information about A held by a local authority in connection with the exercise of its social services functions;
- [^{F4}(ga) is information about A held by a childminder agency in connection with the exercise of its functions under Part 3 of the Act;]
- (h) is information about A, whether or not of a kind described in sub-paragraphs (a) to (g), held by—
 - [^{F5}(i) the Welsh Ministers in pursuance of their functions as registration authority under Part 2 of the Children and Families (Wales) Measure 2010;]
 - [^{F6}(ii) Social Care and Social Work Improvement Scotland, pursuant to Part 5 of the Public Services Reform (Scotland) Act 2010;]
 - (iii) a Health and Social Services Board, pursuant to Part 11 of the Children (Northern Ireland) Order 1995^{M6};
 - (iv) a body acting on behalf of the Crown in the Channel Islands or the Isle of Man;

(v) the national authority of [F7] member state of the European Economic Area having functions comprising the regulation of childcare.

(3) In this regulation—

“employment” includes work undertaken on a self-employed or voluntary basis (and “employer” is to be read accordingly);

“relevant qualification” means a qualification evidencing competence, or level of competence, in an area that is relevant to the Chief Inspector's function of deciding whether or not to grant an application for registration under [F8] any of Chapters 2 to 4] of the Act, or to the function under section 68(2)(a) [F9] or 69B(2)(a)] of the Act;

“social services functions” means any functions which are social services functions for the purposes of the Local Authority Social Services Act 1970 ^{M7}[F10] or, as the case may be, the Social Services and Well-being (Wales) Act 2014].

Textual Amendments

- F4** Reg. 5(2)(ga) inserted (1.9.2014) by [The Childcare \(Childminder Agencies\) \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1921\)](#), regs. 1, **6(a)**
- F5** Reg. 5(2)(h)(i) substituted (W.) by [S.I. 2010/2582, Sch. 4 para. 21](#) (as inserted (1.4.2011) by [The Children and Families \(Wales\) Measure 2010 \(Commencement No.2, Savings and Transitional Provisions\) \(Amendment\) and \(Consequential Amendments\) Order 2011 \(S.I. 2011/577\)](#), art. 2(3), **Sch.**)
- F6** Reg. 5(2)(h)(ii) substituted (28.10.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications of Enactments\) Order 2011 \(S.I. 2011/2581\)](#), art. 1(2)(b), **Sch. 2 para. 59**
- F7** Word in reg. 5(2)(h)(v) substituted (31.12.2020) by [The Childcare \(Miscellaneous Amendments\) \(EU Exit\) \(England\) Regulations 2018 \(S.I. 2018/1116\)](#), regs. 1, **3** (as amended by [S.I. 2019/727](#), regs. 1, 2); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 5(3) substituted (1.9.2014) by [The Childcare \(Childminder Agencies\) \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1921\)](#), regs. 1, **6(b)(i)**
- F9** Words in reg. 5(3) inserted (1.9.2014) by [The Childcare \(Childminder Agencies\) \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1921\)](#), regs. 1, **6(b)(ii)**
- F10** Words in reg. 5(3) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), **Sch. 3 para. 103**

Marginal Citations

- M3** Reference to “A” is made in section 90(2)(a) of the Childcare Act 2006.
- M4** [1997 c.50](#). Section 113A was inserted by section 163(2) of the [Serious Organised Crime and Police Act 2005 \(c.15\)](#), and was amended by paragraph 14 of Schedule 9 to the [Safeguarding Vulnerable Groups Act 2006 \(c.47\)](#) and sections 78(2) and 79(1) of, and paragraph 28 of Schedule 4 to, the [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#).
- M5** Section 113B was inserted by section 163(2) of the [Serious Organised Crime and Police Act 2005](#), and was amended by paragraph 14 of Schedule 9 to the [Safeguarding Vulnerable Groups Act 2006](#), paragraph 149 of Schedule 16 to the [Armed Forces Act 2006 \(c.52\)](#) and sections 79(1) and 80 of the [Protection of Vulnerable Groups \(Scotland\) Act 2007](#).
- M6** [S.I. 1995/755 \(N.I.2\)](#).
- M7** [1970 c.42](#).

PART 3 E+W

Certificates of registration

[^{F11}Content of certificate of registration issued by the Chief Inspector E+W]

6.—(1) A certificate of registration given in accordance with section 37, 56 or 64 of the Act must contain the following information—

- (a) the name of the registered person;
- (b) the registered person's principal postal correspondence address;
- (c) the date of registration;
- (d) any unique reference number or other identifier issued by the Chief Inspector in respect of the registration;
- (e) whether the registered person is registered in the early years register or Part A or B of the general childcare register;
- (f) whether the registered person is registered as an early years childminder, a later years childminder or as a provider of childcare other than early years childminding or later years childminding;
- (g) any conditions imposed on the registered person's registration under section 38, 58 or 66 of the Act, and the date on which they were imposed;
- (h) if the registered person is registered as an early years childminder or a later years childminder—
 - (i) the address of the domestic premises where the registered person provides the early years childminding or the later years childminding; and
 - (ii) the address of approved premises which are non-domestic premises;
- (i) if the registered person provides early years provision or later years provision which would be early years childminding or later years childminding but for section 96(5) or (9) of the Act, the address of approved premises; and
- (k) if the registered provider does not fall within paragraph (h) or (i)—
 - (i) the address of approved premises; and
 - (ii) the date on which the premises were approved.]

Textual Amendments

F11 Reg. 6 substituted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **6(4)**

Content of combined certificate of registration E+W

7. A combined certificate of registration given in accordance with section 92 of the Act must contain the name of the registered person and the information specified in regulation 6(b) to [^{F12}(k)] in respect of [^{F13}the registered person's registration].

Textual Amendments

F12 Word in reg. 7 substituted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **6(5)(a)**

F13 Words in reg. 7 substituted (1.1.2016) by *The Childcare (Miscellaneous Amendments) Regulations 2015* (S.I. 2015/1562), regs. 1(1), **6(5)(b)**

[^{F14}Content of certificate of registration issued by a childminder agency **E+W**

7A. A certificate of registration given in accordance with section 37A, 56A or 65A of the Act must contain the following information—

- (a) the name of the registered person;
 - [the registered person’s principal postal correspondence address;]
- ^{F15}(aa)
- (b) the date of registration;
- (c) whether the registered person is registered as an early years provider under Chapter 2, a later years provider under Chapter 3, or as a provider of childcare who is registered on a voluntary basis under Chapter 4 of Part 3 of the Act;
- (d) whether the registered person is registered as a childminder or as a provider of childcare other than childminding;
- (e) where the registered person is registered as a provider of childcare other than childminding, the address of the [^{F16}approved premises];
- (f) the name, address and telephone number of the childminder agency with which the registered person is registered;
- (g) any unique reference number or other identifier issued by the Chief Inspector to the childminder agency with which the registered person is registered;
 - [if the registered person is registered as an early years childminder or a later years ^{F17}(h) childminder—
 - (i) the address of the domestic premises where the registered person provides the early years childminding or the later years childminding; and
 - (ii) the address of approved premises which are non-domestic premises.]]

Textual Amendments

- F14** Reg. 7A inserted (1.9.2014) by *The Childcare (Childminder Agencies) (Miscellaneous Amendments) Regulations 2014* (S.I. 2014/1921), regs. 1, **8**
- F15** Reg. 7A(aa) inserted (1.1.2016) by *The Childcare (Miscellaneous Amendments) Regulations 2015* (S.I. 2015/1562), regs. 1(1), **6(6)(a)**
- F16** Words in reg. 7A(e) substituted (1.1.2016) by *The Childcare (Miscellaneous Amendments) Regulations 2015* (S.I. 2015/1562), regs. 1(1), **6(6)(b)**
- F17** Reg. 7A(h) inserted (1.1.2016) by *The Childcare (Miscellaneous Amendments) Regulations 2015* (S.I. 2015/1562), regs. 1(1), **6(6)(c)**

[^{F18}PART 3A E+W

Premises

Textual Amendments

F18 Pt. 3A inserted (1.1.2016) by The Childcare (Miscellaneous Amendments) Regulations 2015 (S.I. 2015/1562), regs. 1(1), 6(7)

Certain providers: offence of providing provision other than on approved premises E+W

7B.—(1) A registered person who, without reasonable excuse, fails to comply with a prescribed requirement in relation to the premises on which early years provision or later years provision is provided is guilty of an offence and is liable on summary conviction to a fine.

(2) The prescribed requirements are those in—

- (a) paragraph 11A of Schedule 1 to the Childcare (Early Years Register) Regulations 2008 for early years childminders registered in the early years register;
- (b) paragraph 14A of Schedule 2 to the Childcare (Early Years Register) Regulations 2008 for early years providers registered in the early years register other than early years childminders;
- (c) paragraph 8A of Schedule 1 to the Childcare (General Childcare Register) Regulations 2008 for later years childminders registered in Part A of the general childcare register;
- (d) paragraph 11A of Schedule 2 to the Childcare (General Childcare Register) Regulations 2008 for other later years providers registered in Part A of the general childcare register other than early years childminders.

Relevant person's obligation to determine an additional premises application E+W

7C.—(1) This regulation applies if the relevant person receives an additional premises application.

(2) If the relevant person considers that the additional premises, and the arrangements for the childcare proposed on the additional premises, are suitable, the relevant person must approve the additional premises application.

(3) If the relevant person considers that the additional premises, or the arrangements for the childcare proposed on the additional premises, are not suitable, the relevant person must refuse the additional premises application.

Appeal against refusal by the Chief Inspector of an additional premises application E+W

7D. A determination by the Chief Inspector to refuse an additional premises application is prescribed for the purposes of section 74(2) of the Act.]

PART 4 E+W

Suspension of registration

Suspension of registration E+W

8. The registration of a [^{F19}person who is registered under Chapter 2, 3 or 4 in the early years register or the general childcare register] may be suspended [^{F20}, generally or only in relation to particular premises,] by the Chief Inspector, by notice, in the circumstances prescribed in regulation 9 for the period prescribed in regulation 10.

Textual Amendments

- F19** Words in reg. 8 substituted (1.9.2014) by [The Childcare \(Childminder Agencies\) \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1921\)](#), regs. 1, **9**
- F20** Words in reg. 8 inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **6(8)**

Circumstances in which registration may be suspended E+W

9. The circumstances prescribed for the purposes of section 69(1) of the Act are that the Chief Inspector reasonably believes that the continued provision of childcare by the registered person to any child may expose such a child to a risk of harm.

Suspension of registration: further provisions E+W

10.—(1) Subject to paragraph (2), the period for which the registration of a registered person may be suspended [^{F21}, generally or only in relation to particular premises,] is six weeks beginning with the date specified in the notice of suspension given in accordance with paragraph (4).

(2) Subject to paragraph (3), in a case in which a further period of suspension is based on the same circumstances as the period of suspension immediately preceding that further period of suspension, the Chief Inspector's power to suspend registration [^{F22}, generally or only in relation to particular premises,] may only be exercised so as to give rise to a continuous period of suspension of 12 weeks.

(3) Where, however, it is not reasonably practicable (for reasons beyond the control of the Chief Inspector)—

- (a) to complete any investigation into the grounds for the Chief Inspector's belief referred to in regulation 9, or
- (b) for any necessary steps to be taken to eliminate or reduce the risk of harm referred to in regulation 9,

within a period of 12 weeks, the period of suspension may continue until the end of the investigation referred to in sub-paragraph (a), or until the steps referred to in sub-paragraph (b) have been taken.

(4) A notice under regulation 8 may be given to the registered person—

- (a) by delivering it to the registered person,
- (b) by sending it by post, or
- (c) subject to paragraph (5), by transmitting it electronically.

(5) If the notice is transmitted electronically, it is to be treated as given to the registered person only if—

- (a) the registered person has indicated to the Chief Inspector a willingness to receive notices transmitted by electronic means and has provided an address suitable for that purpose, and
- (b) the notice is sent to that address.

Textual Amendments

- F21** Words in reg. 10(1) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **6(9)(a)**
- F22** Words in reg. 10(2) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **6(9)(b)**

Lifting of suspension **E+W**

11. If, at any time during a period of suspension under regulation 8, it appears to the Chief Inspector that the circumstances prescribed in regulation 9 no longer exist, the Chief Inspector must lift the suspension.

Appeal against suspension **E+W**

12.—(1) A registered person whose registration has been suspended [^{F23}, generally or only in relation to particular premises,] under regulation 8 may appeal to the ^{F24}[^{F25} ... Tribunal] against the suspension.

(2) On an appeal under paragraph (1), the ^{F24}[^{F25} ... Tribunal] must either—

- (a) confirm the Chief Inspector's decision to suspend registration, or
- (b) direct that the suspension shall cease to have effect.

(3) In a case where the suspension of a registered person's registration ends before the ^{F24}[^{F25} ... Tribunal] determines the appeal in accordance with paragraph (2), the ^{F24}[^{F25} ... Tribunal] must dismiss the appeal.

Textual Amendments

- F23** Words in reg. 12(1) inserted (1.1.2016) by [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **6(10)(a)**
- F24** Words in reg. 12 omitted (1.1.2016) by virtue of [The Childcare \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1562\)](#), regs. 1(1), **6(10)(b)**
- F25** Words in reg. 12 substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 343**

Meaning of “harm” **E+W**

13. In this Part of these Regulations, “harm” has the same meaning as in section 31(9) of the Children Act 1989 ^{M8}.

Marginal Citations

- M8** Section 31(9) was amended by section 120 of the [Adoption and Children Act 2002 \(c.38\)](#).

Changes to legislation: *There are currently no known outstanding effects for the The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008. (See end of Document for details)*

Department for Children, Schools and Families

Beverley Hughes
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions which are common to the registration of childcare providers in the early years register and the general childcare register. Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector") is required to maintain these registers by section 32 of the Childcare Act 2006 ("the Act"). The general childcare register is divided into Part A (later years provision for children under the age of 8) and Part B (voluntary registration).

Regulation 3 prescribes the date when a child reaches the age of 18 as the upper age limit for "later years provision" (as defined in section 96 of the Act). Consequently, a person providing childcare for children up to the age of 18 can be registered in Part B of the general childcare register.

Regulation 4 provides that the Chief Inspector can treat the requirements for registration as not being satisfied if consent is not given to the release of certain information to the Chief Inspector held by a third party. Regulation 5 prescribes the types of information in question.

Regulations 6 and 7 prescribe the information that must be contained in a certificate of registration issued to a person who is registered in the early years register or in the general childcare register, and in a combined certificate of registration issued to a person who is registered more than once.

Regulations 8 to 13 contain provisions about the Chief Inspector's power to suspend a person's registration. Under regulation 9, registration can be suspended where there is or could be a risk of harm to a child. Regulation 10 provides for the maximum period of suspension and makes further provision as to the notice of suspension. Regulation 12 provides for a right of appeal against suspension.

An Impact Assessment has not been produced for this instrument as no impact on business, charities or voluntary bodies is foreseen, and the impact on the public sector is minimal.

Changes to legislation:

There are currently no known outstanding effects for the The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008.