

*These notes refer to the Childcare Act 2006 (c.21)
which received Royal Assent on 11 July 2006*

CHILDCARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 4 – Miscellaneous and General

Section 99: Provision of information about young children: England

183. **Section 99(1)** allows regulations to make provision requiring all registered early years providers, and school-based providers who are exempted from registration requirements by section 34(2), to provide individual child information to the Secretary of State or any prescribed person. The intention is to prescribe local authorities.
184. The section also makes provision for the disclosure of individual child information by the Secretary of State, an information collator and other persons holding individual child information. An information collator is an organisation collating data on behalf of the Secretary of State.
185. The section prohibits the publishing of any information received by or under it in any form which includes the name of the child or children to whom it relates.
186. The section is based on section 537A of the Education Act 1996 which provides for data to be collected in relation to children educated in schools.

Section 100: Provision of information about young children: transitory provision

187. **Section 100** makes provision for data collection prior to the commencement of section 7. (It is proposed to commence the early years registration requirements in Chapter 2 of Part 3 of the Act at the same time as section 7). It provides for the collection of data relating to children who are receiving funded nursery education in pursuance of section 118 of the School Standards and Frameworks Act 1998.

Section 101: Provision of information about children: Wales

188. **Section 101(1)** allows regulations to make provision, in relation to Wales, requiring childminders and providers of day care registered under Part 10A of the Children Act 1989, and providers of funded nursery education, to provide individual child information to the Assembly or any prescribed person.
189. The section also makes provision for the disclosure of individual child information by the Assembly, an information collator and other persons holding individual child information. An information collator is an organisation collating data on behalf of the Assembly.
190. The section prohibits the publishing of any information received by or under it in any form which includes the name of the child or children to whom it relates.
191. The section is based on section 537A of the Education Act 1996 which provides for data to be collected in relation to children educated in schools.

Section 102: Disqualification for registration under Children Act 1989

192. **Section 102** amends paragraph 4 of Schedule 9A to the Children Act 1989 which allows for regulations to be made disqualifying certain people from registration for day care or childminding and sets out a list of particular areas that such regulations may cover. Section 102(2)(a) amends the list so that persons may be disqualified by regulations on the basis that they are subject to a direction under section 142 of the Education Act 2002 on grounds relating to health. (Currently the legislation refers only to persons who are subject to such a direction on grounds that they are unsuitable to work with children.) Section 102(2)(b) further amends the list so that persons may be disqualified by regulations where they have been given a caution for a prescribed offence. Section 102(3) makes a further amendment to provide that, for this purpose, ‘caution’ includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998.

Section 103: Minor and consequential amendments and repeals

193. **Section 103** gives effect to Schedule 2, which makes minor and consequential amendments to a number of enactments, in particular, the Children Act 1989, the Education Act 1996 and the School Standards and Framework Act 1998.
194. The amendment at **paragraph 1** of Schedule 2 is a minor amendment which is not directly related to the other provisions of the Act. Most of the adoption functions of local authorities under the Adoption Act 1976 were repealed by the Adoption and Children Act 2002 (which conferred new functions relating to adoption on local authorities). However, some functions under the 1976 Act continue to be exercisable by virtue of transitional or saving provisions made by or under the 2002 Act. The amendment made by paragraph 1 ensures that such functions will be treated as social services functions for the purpose of the Local Authority Social Services Act 1970.
195. The amendments to Part 10A of the Children Act 1989 confine its application to Wales as it is superseded for England by Part 3 of the Act (see **paragraphs 4 to 18** of Schedule 2 to the Act).
196. A number of the amendments in Schedule 2 are consequential on the replacement (for England) of section 118 of the School Standards and Framework Act 1998 by the new duty in section 7 to secure prescribed early years provision free of charge (see **paragraphs 21 to 24, 27 and 34**).
197. The repeal (made by **paragraph 31** of Schedule 2) of section 118A of the School Standards and Framework Act 1998 removes local authorities’ duties under that Act to assess the sufficiency of childcare and to establish an information service for the public about the provision of childcare and related services, as these duties have been superseded by the provisions of Parts 1 and 2 of this Act.
198. **Section 103** also provides for the enactments specified in Schedule 3 to be repealed to the extent specified.

Sections 104 and 105: Subordinate legislation

199. **Sections 104** and **105** make general provisions in relation to subordinate legislation. Section 104 allows the Secretary of State or the Welsh Assembly to make regulations and orders which apply generally or in relation to specific cases and to make different provision for different areas or cases.
200. **Section 105** sets out the appropriate level of parliamentary scrutiny. It provides that orders relating to commencement are not subject to parliamentary procedure. An order under section 5 (to amend the definition of early childhood services) or section 41(4) (to amend the areas of learning and development in the Early Years Foundation Stage) or section 94 (to allow for registration in respect of multiple premises) is subject to

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the affirmative procedure. All other subordinate legislation is subject to the negative procedure.

Sections 108: Isles of Scilly

201. **Section 108** makes provision for the Isles of Scilly. It allows the Secretary of State to make orders to adapt, modify or except provisions within Part 1 and Part 3 so that they are appropriate for the Isles of Scilly.

Sections 109 and 110: Commencement

202. **Sections 109** and **110** deal with commencement.
203. Certain general provisions, and the amendment made by paragraph 1 of Schedule 2, come into force on Royal Assent (see section 109(1)).
204. Most of the other provisions of the Act will come into force in accordance with orders made by the Secretary of State. Part 2 and section 101 come into force in accordance with provision made by the National Assembly for Wales. Certain of the amendments and repeals made by Schedules 2 and 3 (and sections 102 and 103 so far as relating to those provisions) also come into force, in relation to Wales, in accordance with provision made by the Assembly.

Section 111: Short title and extent

205. **Section 111** provides that the Act extends to England and Wales only, except that any amendment or repeal made by the Act has the same extent as the provision amended or repealed.