

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Families Act 2014, PART 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4 **E+W**

#### CHILDMINDER AGENCIES: AMENDMENTS

#### **PART 2** **E+W**

##### EARLY YEARS CHILDMINDER AGENCIES

3 The Childcare Act 2006 is amended as follows.

#### **Commencement Information**

**II** Sch. 4 para. 3 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

4 In section 33 (requirement to register: early years childminders), in subsection (1) for “in the early years register as an early years childminder” substitute “as an early years childminder—

- (a) in the early years register, or
- (b) with an early years childminder agency.”

#### **Commencement Information**

**I2** Sch. 4 para. 4 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

5 (1) Section 34 (requirement to register: other early years providers) is amended as follows.

(2) For subsection (1) substitute—

“(1) A person may not provide early years provision on premises in England which are not domestic premises unless the person is registered in the early years register in respect of the premises.

(1A) A person may not provide early years provision on domestic premises in England which would be early years childminding but for section 96(5) unless the person is registered—

- (a) in the early years register in respect of the premises, or
- (b) with an early years childminder agency in respect of the premises.”

(3) In subsection (2) for “Subsection (1) does” substitute “ Subsections (1) and (1A) do ”.

(4) In subsection (3) for “subsection (1) does” substitute “ subsections (1) and (1A) do ”.

(5) In subsection (5) after “subsection (1)” insert “ or (1A) ”.

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**Commencement Information**

**I3** Sch. 4 para. 5 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

- 6 (1) Section 35 (applications for registration: early years childminders) is amended as follows.
- (2) In subsection (1) for “to the Chief Inspector for registration as an early years childminder” substitute “—
- (a) to the Chief Inspector for registration as an early years childminder in the early years register, or
  - (b) to an early years childminder agency for registration with that agency as an early years childminder.”
- (3) In subsection (2)—
- (a) in paragraph (b) after “Chief Inspector” insert “ or (as the case may be) the early years childminder agency ”, and
  - (b) in paragraph (c) at the beginning insert “ if it is an application to the Chief Inspector, ”.
- (4) In subsections (3) and (4), after “subsection (1)” insert “ (a) ”.
- (5) After subsection (4) insert—
- “(4A) An early years childminder agency may grant an application under subsection (1)(b) only if—
- (a) the applicant is not disqualified from registration by regulations under section 75,
  - (b) it appears to the agency that the prescribed requirements for registration are satisfied and are likely to continue to be satisfied, and
  - (c) it appears to the agency that any other reasonable requirements it has imposed are satisfied and are likely to continue to be satisfied.”
- (6) In subsection (5), after paragraph (a) insert—
- “(aa) prohibiting the applicant from being registered in the early years register as an early years childminder if the applicant is registered with a childminder agency;
  - (ab) prohibiting the applicant from being registered with an early years childminder agency as an early years childminder if the applicant is registered—
    - (i) with another childminder agency;
    - (ii) in the early years register or the general childcare register;”.

**Commencement Information**

**I4** Sch. 4 para. 6 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

- 7 (1) Section 36 (applications for registration: other early years providers) is amended as follows.
- (2) After subsection (1) insert—

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“(1A) A person who proposes to provide on any premises early years provision in respect of which the person is required by section 34(1A) to be registered may make an application—

- (a) to the Chief Inspector for registration as an early years provider in respect of the premises, or
- (b) to an early years childminder agency for registration with that agency as an early years provider in respect of the premises.”

(3) In subsection (2)—

- (a) after “subsection (1)” insert “ or (1A) ”,
- (b) in paragraph (b) after “Chief Inspector” insert “ or (as the case may be) the early years childminder agency ”, and
- (c) in paragraph (c) at the beginning insert “ if it is an application to the Chief Inspector, ”.

(4) In subsections (3) and (4), after “subsection (1)” insert “ or (1A)(a) ”.

(5) After subsection (4) insert—

“(4A) An early years childminder agency may grant an application under subsection (1A)(b) only if—

- (a) the applicant is not disqualified from registration by regulations under section 75,
- (b) it appears to the agency that the prescribed requirements for registration are satisfied and are likely to continue to be satisfied, and
- (c) it appears to the agency that any other reasonable requirements it has imposed are satisfied and are likely to continue to be satisfied.”

(6) In subsection (5), after paragraph (a) insert—

- “(aa) prohibiting the applicant from being registered in the early years register as an early years provider other than a childminder if the applicant is registered with a childminder agency;
- (ab) prohibiting the applicant from being registered with an early years childminder agency as an early years provider other than a childminder if the applicant is registered—
  - (i) with another childminder agency;
  - (ii) in the early years register or the general childcare register;”.

#### **Commencement Information**

**15** Sch. 4 para. 7 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

8 (1) Section 37 (entry on the register and certificates) is amended as follows.

(2) In subsection (1) after “section 35(1)” insert “ (a) ”.

(3) In subsection (2) after “section 36(1)” insert “ or (1A)(a) ”.

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**Commencement Information**

**I6** Sch. 4 para. 8 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

9 After section 37 insert—

**“37A Early years childminder agencies: registers and certificates**

- (1) If an application under section 35(1)(b) is granted, the early years childminder agency must—
  - (a) register the applicant in the register maintained by the agency as an early years childminder, and
  - (b) give the applicant a certificate of registration stating that he or she is so registered.
- (2) If an application under section 36(1A)(b) is granted, the early years childminder agency must—
  - (a) register the applicant in the register maintained by the agency as an early years provider other than a childminder, in respect of the premises in question, and
  - (b) give the applicant a certificate of registration stating that he or she is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the early years childminder agency must give the registered early years provider an amended certificate.”

**Commencement Information**

**I7** Sch. 4 para. 9 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

10 In section 38 (conditions on registration), in subsections (1) and (5) for “under this Chapter” substitute “ in the early years register ”.

**Commencement Information**

**I8** Sch. 4 para. 10 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

- 11 (1) Section 44 (instruments specifying learning and development or welfare requirements) is amended as follows.
- (2) In subsection (2)—
    - (a) after “Chief Inspector” insert “ or early years childminder agencies ”, and
    - (b) omit “his”.
  - (3) In subsection (3) after “Chief Inspector” insert “ or early years childminder agencies ”.

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- (4) In subsection (4) after paragraph (a) (and before the “or” which follows it) insert—  
“(aa) by early years childminder agencies in the exercise of functions under this Part,”.

**Commencement Information**

**I9** Sch. 4 para. 11 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

- 12 In section 49 (inspections), in subsection (1) for “under this Chapter” substitute “in the early years register”.

**Commencement Information**

**I10** Sch. 4 para. 12 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

- 13 After Chapter 2 (regulation of early years provision) insert—

**“CHAPTER 2A E+W**

REGULATION OF EARLY YEARS CHILDMINDER AGENCIES

*Process of registration*

**Applications for registration**

- 51A(1) A person may make an application to the Chief Inspector for registration as an early years childminder agency.
- (2) An application under subsection (1) must—
- (a) give any prescribed information about prescribed matters,
  - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
  - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if—
- (a) the applicant is not disqualified from registration by regulations under section 76A, and
  - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require the Chief Inspector to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
- (a) the applicant;
  - (b) any persons employed by the applicant;
  - (c) management and control of the applicant (where the applicant is not an individual);

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- (d) the provision to the Chief Inspector of information about early years providers registered with the applicant;
- (e) the applicant's arrangements for registering early years providers;
- (f) the applicant's arrangements in relation to training and monitoring early years providers and providing such persons with information, advice and assistance;
- (g) the applicant's arrangements for ensuring that early years provision is of a sufficient standard.

### **Entry on the register and certificates**

- 51B (1) If an application under section 51A is granted, the Chief Inspector must—
- (a) register the applicant in the early years register as an early years childminder agency, and
  - (b) give the applicant a certificate of registration stating that the applicant is so registered.
- (2) A certificate of registration given to the applicant in pursuance of subsection (1) must contain prescribed information about prescribed matters.
- (3) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the early years childminder agency an amended certificate.
- (4) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the early years childminder agency a copy, on payment by the agency of any prescribed fee.

### **Conditions on registration**

- 51C (1) The Chief Inspector may impose such conditions as the Chief Inspector thinks fit on the registration of an early years childminder agency under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers the person in pursuance of section 51B or at any subsequent time.
  - (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
  - (4) An early years childminder agency commits an offence if, without reasonable excuse, the agency fails to comply with any condition imposed under subsection (1).
  - (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Inspections*

### **Inspections of early years childminder agencies**

- 51D(1) The Chief Inspector—

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- (a) must inspect an early years childminder agency at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
  - (b) may inspect an early years childminder agency at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (2) For the purposes of an inspection under this section, the Chief Inspector may inspect early years provision provided by early years providers who are registered with the early years childminder agency for the purposes of Chapter 2.
- (3) The Chief Inspector may charge a prescribed fee for conducting an inspection of an early years childminder agency where—
  - (a) the inspection is conducted at the request of the agency, and
  - (b) the Chief Inspector is required by the Secretary of State under subsection (1)(a) to conduct that inspection.
- (4) Regulations may make provision requiring an early years childminder agency to notify prescribed persons of the fact that it is to be inspected under this section.

### **Reports of inspections**

- 51E (1) After conducting an inspection under section 51D, the Chief Inspector must make a report in writing on—
- (a) the quality and standards of the services offered by the early years childminder agency to early years providers registered with it,
  - (b) the quality of leadership and management in the early years childminder agency, and
  - (c) the effectiveness of the arrangements of the early years childminder agency for assuring itself of the quality of the care and education provided by the early years providers registered with it.
- (2) The Chief Inspector—
- (a) may send a copy of the report to the Secretary of State and must do so without delay if the Secretary of State requests a copy,
  - (b) must ensure that a copy of the report is sent without delay to the early years childminder agency,
  - (c) must ensure that copies of the report, or such parts of it as the Chief Inspector considers appropriate, are sent to such other persons as may be prescribed, and
  - (d) may arrange for the report (or parts of it) to be further published in any manner the Chief Inspector considers appropriate.
- (3) Regulations may make provision—
- (a) requiring the early years childminder agency to make a copy of any report sent to it under subsection (2)(b) available for inspection by prescribed persons;
  - (b) requiring the agency, except in prescribed cases, to provide a copy of the report to prescribed persons;

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- (c) authorising the agency in prescribed cases to charge a fee for providing a copy of the report.

*False representations*

**False representations**

- 51F (1) A person who without reasonable excuse falsely represents that the person is an early years childminder agency commits an offence.
- (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.”

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**Commencement Information**

**I11** Sch. 4 para. 13 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)



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