

SCHEDULES

SCHEDULE 4

CHILDMINDER AGENCIES: AMENDMENTS

PART 5

PROVISIONS APPLYING IN RELATION TO ALL CHILDMINDER AGENCIES

- 32 The Childcare Act 2006 is amended as follows.
- 33 (1) Section 68 (cancellation of registration) is amended as follows.
- (2) In subsection (1) after “or 4” insert “in the early years register or the general childcare register”.
- (3) In subsection (2)—
- (a) after “or 4” insert “in the early years register or the general childcare register”, and
- (b) in paragraph (d) after “Chapter 2” insert “in the early years register”.
- (4) In subsection (3) for “as an early years childminder under Chapter 2” substitute “under Chapter 2 in the early years register as an early years childminder”.
- (5) In subsection (4) for “as a later years childminder under Chapter 3” substitute “under Chapter 3 in Part A of the general childcare register as a later years childminder”.
- (6) In subsection (5) for “as a childminder under Chapter 4” substitute “under Chapter 4 in Part B of the general childcare register as a childminder”.
- (7) In subsection (6) after “or 4” insert “in the early years register or the general childcare register”.
- (8) In the title, at the end insert “in a childcare register: early years and later years providers”.
- 34 (1) Section 69 (suspension of registration) is amended as follows.
- (2) In subsection (1) after “or 4” insert “in the early years register or the general childcare register”.
- (3) In subsection (3) for “as an early years childminder under Chapter 2” substitute “under Chapter 2 in the early years register as an early years childminder”.
- (4) In subsection (4) for “as a later years childminder under Chapter 3” substitute “under Chapter 3 in Part A of the general childcare register as a later years childminder”.
- (5) In subsection (6) for “as an early years provider (other than an early years childminder) under Chapter 2” substitute “under Chapter 2 in the early years register as an early years provider (other than an early years childminder)”.

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- (6) In subsection (7) for “as a later years provider (other than a later years childminder) under Chapter 3” substitute “under Chapter 3 in Part A of the general childcare register as a later years provider (other than a later years childminder)”.
- (7) In the title, at the end insert “in a childcare register: early years and later years providers”.
- 35 After section 69 insert—

“69A Cancellation, termination and suspension of registration with a childminder agency

- (1) Regulations may make provision about the cancellation, termination and suspension of the registration of an early years provider or a later years provider with an early years childminder agency or a later years childminder agency for the purposes of Chapter 2, 3 or 4, in particular—
- (a) about the termination by an early years provider or a later years provider of his or her registration;
 - (b) for the creation of offences relating to things done while a registration is suspended;
 - (c) about the resolution of disputes between an early years provider or a later years provider and an early years childminder agency or a later years childminder agency.
- (2) Regulations by virtue of subsection (1) which make provision about the suspension of the registration of an early years provider or a later years provider with a childminder agency must include provision conferring on the registered provider a right of appeal to the Tribunal against suspension.
- (3) Regulations made by virtue of subsection (1)(b) may only create offences which are—
- (a) triable only summarily, and
 - (b) punishable only with a fine not exceeding the level specified in the regulations, which may not exceed level 5 on the standard scale.”
- 36 After section 69A (as inserted by paragraph 35) insert—

“69B Cancellation of registration: childminder agencies

- (1) The Chief Inspector must cancel the registration of a person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency if it appears to the Chief Inspector that the person has become disqualified from registration by regulations under section 76A.
- (2) The Chief Inspector may cancel the registration of a person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency if it appears to the Chief Inspector—
- (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 the registration under that Chapter,

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- (c) that the person has failed to comply with a requirement imposed by regulations under that Chapter,
 - (d) that the person has failed to comply with a requirement imposed by this Chapter, or by regulations under this Chapter, or
 - (e) that the person has failed to pay a prescribed fee.
- (3) Where a requirement to make any changes or additions to any services has been imposed on a person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency, the person's registration may not be cancelled on the ground of any defect or insufficiency in the services, 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.
- (4) Regulations may make provision about the effect of the cancellation under this section of the registration under Chapter 2A or 3A of an early years childminder agency or a later years childminder agency on an early years provider or a later years provider registered with the agency for the purposes of Chapter 2, 3 or 4.

69C Suspension of registration: childminder agencies

- (1) Regulations may provide for the registration of a person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency 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) Regulations under subsection (1) may make provision about the effect of the suspension of the registration of an early years childminder agency or a later years childminder agency on an early years provider or a later years provider registered with the agency for the purposes of Chapter 2, 3 or 4.
- (4) A person registered under Chapter 2A as an early years childminder agency may not, at any time when the person's registration under that Chapter is suspended in accordance with regulations under this section—
 - (a) exercise any functions of an early years childminder agency, or
 - (b) represent that the person may exercise such functions.
- (5) A person registered under Chapter 3A as a later years childminder agency may not, at any time when the person's registration under that Chapter is suspended in accordance with regulations under this section—
 - (a) exercise any functions of a later years childminder agency, or
 - (b) represent that the person may exercise such functions.
- (6) A person commits an offence if, without reasonable excuse, the person contravenes subsection (4) or (5).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

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- 37 (1) Section 70 (voluntary removal from register) is amended as follows.
- (2) In subsection (1) for “any of Chapters 2 to 4” substitute “Chapter 2, 3 or 4”.
- (3) In the title for “register” substitute “a childcare register: early years and later years providers”.
- 38 After section 70 insert—

“70A Voluntary removal from a childcare register: childminder agencies

- (1) A person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency may give notice to the Chief Inspector of a wish to be removed from the early years register or (as the case may be) from Part A of the general childcare register.
- (2) If a person gives notice under subsection (1) the Chief Inspector must remove the person from the early years register or (as the case may be) from Part A 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 the Chief Inspector’s intention to cancel the person’s registration, and
 - (b) the Chief Inspector has not decided that he or she 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 the Chief Inspector’s decision to cancel the person’s 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.”
- 39 In section 71 (termination of voluntary registration on expiry of prescribed period), in the title after “registration” insert “in Part B of the general childcare register”.
- 40 In section 72 (protection of children in an emergency), in subsection (1) after “or 4” insert “in the early years register or the general childcare register”.
- 41 (1) Section 73 (procedure for taking certain steps) is amended as follows.
- (2) In subsection (3)(b) for “his” substitute “the person’s”.
- (3) In subsection (4) for “he” substitute “the applicant or registered person”.
- (4) In subsection (5)—
- (a) for “he” substitute “the recipient”, and
 - (b) for “him” substitute “the recipient”.
- (5) In subsection (6) for “his” substitute “the recipient’s”.
- (6) In subsection (7) for “he” (in the second place it occurs) substitute “the recipient”.
- (7) In subsection (9) for “he” substitute “the person”.
- (8) In subsection (10) for “his” substitute “the”.

- 42 (1) Section 74 (appeals) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) for “his” substitute “the”,
 - (b) in paragraph (b) for “his” substitute “the person’s”,
 - (c) in paragraph (c) for “his” substitute “the person’s”, and
 - (d) in paragraph (e) for “his” substitute “the person’s”.
- (3) In subsection (5)(b) for “his” substitute “the”.
- (4) In the title, at the end insert “relating to registration in a childcare register”.
- 43 In the italic heading before section 75 (disqualification from registration), at the end insert “: early years and later years providers”.
- 44 In the title of section 75, at the end insert “: early years and later years providers”.
- 45 (1) Section 76 (consequences of disqualification) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after “34(1)” insert “or (1A)”, and
 - (b) in paragraph (c) after “53(1)” insert “or (1A)”.
- (3) After subsection (3) insert—
- “(3A) An early years childminder agency must not register for the purposes of Chapter 2 a person who is disqualified from registration by regulations under section 75.
 - (3B) A later years childminder agency must not register for the purposes of Chapter 3 a person who is disqualified from registration by regulations under section 75.
 - (3C) An early years childminder agency or a later years childminder agency must not register for the purposes of Chapter 4 a person who is disqualified from registration by regulations under section 75.”
- (4) In subsection (4), for “or (3)” substitute “, (3), (3A), (3B) or (3C)”.
- (5) In subsection (6)—
- (a) after “A person” insert “(“A”)", and
 - (b) for “he” (in each place it occurs) substitute “A”.
- (6) After subsection (6) insert—
- “(6A) A person (“A”) who contravenes subsection (3A), (3B) or (3C) is not guilty of an offence under subsection (4) if A proves that A did not know, and had no reasonable grounds for believing, that the person registered by A was disqualified from registration.”
- (7) In the title, at the end insert “: early years and later years providers”.
- 46 After section 76 insert—

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“Disqualification from registration: childminder agencies

76A Disqualification from registration: childminder agencies

- (1) In this section, “registration” means registration under Chapter 2A or 3A.
- (2) Regulations may provide for a person to be disqualified from registration.
- (3) Regulations under subsection (2) 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 76B) by reason of any fact which would otherwise cause the person to be disqualified if—
 - (a) the person 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 the consent.

76B Consequences of disqualification: childminder agencies

- (1) A person who is disqualified from registration by regulations under section 76A must not—
 - (a) exercise any functions of an early years childminder agency or a later years childminder agency,
 - (b) represent that the person can exercise such functions,
 - (c) be a director, manager or other officer of, or partner in, an early years childminder agency or a later years childminder agency, be a member of the governing body of such an agency, or otherwise be directly concerned in the management of such an agency, or
 - (d) work for such an agency in any capacity which involves entering premises on which early years provision or later years provision is being provided.
- (2) No early years childminder agency or later years childminder agency may employ a person who is disqualified from registration by regulations under section 76A in any capacity which involves—
 - (a) being directly concerned in the management of an early years childminder agency or a later years childminder agency, or
 - (b) entering premises on which early years provision or later years provision is being provided.
- (3) A person who contravenes subsection (1) or (2) commits an offence.
- (4) A person (“P”) who contravenes subsection (2) is not guilty of an offence under subsection (3) if P proves that P did not know, and had no reasonable grounds for believing, that the person whom P was employing was disqualified from registration.
- (5) A person guilty of an offence under subsection (3) 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.

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- (6) 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 (5) to 51 weeks is to be read as a reference to 6 months.”
- 47 (1) Section 77 (powers of entry) is amended as follows.
- (2) In subsection (1)—
- (a) after “34(1)” insert “or (1A)”, and
- (b) after “53(1)” insert “or (1A)”.
- (3) In subsection (2)(a) for “or 60” substitute “, 51D(2), 60 or 61E(2)”.
- (4) For the title substitute “Chief Inspector’s powers of entry: early years provision and later years provision”.
- 48 For the title of section 78 substitute “Powers of entry under section 77: requirement for consent”.
- 49 After section 78 insert—

“78A Chief Inspector’s powers of entry: childminder agencies

- (1) The Chief Inspector may at any reasonable time enter any premises in England if the Chief Inspector has reasonable cause to believe that a person on the premises is falsely representing—
- (a) that the person is an early years childminder agency, or
- (b) that the person is a later years childminder agency.
- (2) The Chief Inspector may at any reasonable time enter any premises in England which is registered in—
- (a) the early years register as premises of an early years childminder agency, or
- (b) Part A of the general childcare register as premises of a later years childminder agency,
- for any of the purposes in subsection (3).
- (3) Those purposes are—
- (a) conducting an inspection under section 51D(1) or 61E(1);
- (b) determining whether any conditions or requirements imposed by or under this Part are being complied with.
- (4) An authorisation given by the Chief Inspector under paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 in relation to the functions under subsection (1) or (2)—
- (a) may be given for a particular occasion or period;
- (b) may be given subject to conditions.
- (5) A person entering premises under this section may (subject to any conditions imposed under subsection (4)(b))—
- (a) inspect the premises;
- (b) inspect, and take copies of—
- (i) any records kept concerning early years providers or later years providers, and

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- (ii) any other documents containing information relating to such providers;
 - (c) seize and remove any document or other material or thing found there which the person 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) interview in private any person present on the premises who works there.
- (6) A person entering premises under this section may (subject to any conditions imposed under subsection (4)(b)) require any person to afford such facilities and assistance with respect to matters within the person’s control as are necessary to enable the powers under this section to be exercised.
- (7) Section 58 of the Education Act 2005 (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.
- (8) It is an offence intentionally to obstruct 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.

78B Powers of entry under section 78A: requirement for consent

- (1) This section applies where a person (“the authorised person”) proposes to enter domestic premises in pursuance of a power of entry conferred by section 78A(2).
- (2) If the authorised person has reasonable cause to believe that the premises are the home of a person who—
- (a) is not employed by the early years childminder agency or (as the case may be) the later years childminder agency, or
 - (b) is not a director, manager or other officer of, or partner in, the agency, a member of its governing body or otherwise directly concerned in the management of the agency,
- the authorised person may not enter the premises without the consent of an adult who is an occupier of the premises and who falls within paragraph (a) or (b).”

50 In section 79 (power of constable to assist in exercise of powers of entry), in subsection (2), in paragraph (a) after “77” insert “or 78A”.

- 51 (1) Section 82 (supply of information to the Chief Inspector), is amended as follows.
- (2) The existing provision becomes subsection (1).
- (3) In that subsection, after “later years provider” insert “, or (as the case may be) as an early years childminder agency or later years childminder agency”.
- (4) After subsection (1) insert—

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“(2) The Chief Inspector’s power under subsection (1) includes a power to require an early years childminder agency or a later years childminder agency to provide the Chief Inspector with information about an early years provider or a later years provider registered with the agency for the purposes of Chapter 2, 3 or 4.”

52 (1) Section 83 (supply of information to HMRC and local authorities) is amended as follows.

(2) In subsection (4)—

(a) after “in which” insert “—

(a)”,

and

(b) after “registered” insert “;

(b) registered premises of the early years childminder agency or later years childminder agency are (or, as the case may be, were) located.”

(3) In the title, at the end insert “by the Chief Inspector”.

53 After section 83 insert—

“83A Supply of information to the Secretary of State, HMRC and local authorities by childminder agencies

(1) An early years childminder agency or a later years childminder agency must provide prescribed information to the Secretary of State, Her Majesty’s Revenue and Customs, and each relevant local authority, if it—

(a) grants a person’s application for registration for the purposes of Chapter 2, 3 or 4;

(b) takes any other steps under this Part of a prescribed description.

(2) The information which may be prescribed for the purposes of this section is—

(a) in the case of information to be provided to the Secretary of State, information which the Secretary of State may require for the purposes of the Secretary of State’s functions in relation to universal credit under Part 1 of the Welfare Reform Act 2012;

(b) 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;

(c) in the case of information to be provided to a relevant local authority, information which would assist the local authority in the discharge of their functions under section 12.

(3) In this section, “relevant local authority” means an English local authority for an area in which a person who is (or, as the case may be, was) registered with the early years childminder agency or later years childminder agency for the purposes of Chapter 2 or 3 provides (or has provided) early years provision or later years provision in respect of which he or she is (or was) registered.”

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54 In the title of section 84 (disclosure of information for certain purposes), at the end insert “: the Chief Inspector”.

55 After section 84 insert—

“84A Disclosure of information for certain purposes: childminder agencies

(1) An early years childminder agency or a later years childminder agency may arrange for prescribed information held by the agency in relation to persons registered with the agency under this Part to be made available for the purpose of—

- (a) assisting parents or prospective parents in choosing an early years provider 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 agency considers appropriate.

(3) Regulations may require an early years childminder agency or a later years childminder agency to provide prescribed information held by the agency in relation to persons registered with the agency under this Part to prescribed persons for either of the purposes mentioned in subsection (1).”

56 In section 85 (offence of making false or misleading statement), in subsection (1) for “he” substitute “the person”.

57 (1) Section 87 (offences by bodies corporate) is amended as follows.

(2) In subsection (1) for “This section” substitute “Subsection (2)”.

(3) After subsection (2) insert—

“(3) Subsection (4) applies where any offence under this Part is committed by a partnership.

(4) 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 partner, that partner (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.”

(4) In the title, at the end insert “and partnerships”.

58 In section 89 (fees), in subsection (1) after “to 4” insert “in the early years register or the general childcare register”.

59 (1) Section 90 (cases where consent to disclosure is withheld) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a) for “Chapter 2, 3 or 4” substitute “any of Chapters 2 to 4”, and
- (b) in paragraph (b) after “68(2)(a)” insert “or 69B(2)(a)”.

(3) In subsection (2)(b) omit “his” in both places it occurs.

60 (1) Section 93 (notices) is amended as follows.

(2) In subsection (1)—

- (a) after paragraph (a) insert—

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- “(aa) section 57A(2) and (4);
 - (ab) section 61C(1);”, and
 - (b) after paragraph (b) insert—
 - “(ba) section 65A(1) and (3);”.
 - (3) In subsection (2)(a) for “him” substitute “the person”.
 - (4) In subsection (4)—
 - (a) in paragraph (a) for “his” substitute “a”, and
 - (b) in paragraph (b) omit “by him”.
- 61 In section 94 (power to amend Part 3: applications in respect of multiple premises), in paragraph (a)—
 - (a) after “36(1)” insert “or (1A)”, and
 - (b) after “55(1)” insert “or (1A)”.
- 62 (1) Section 98 (interpretation of Part 3) is amended as follows.
 - (2) In subsection (1)—
 - (a) after the definition of “childcare” insert—
 - ““childminder agency” means—
 - (a) an early years childminder agency;
 - (b) a later years childminder agency;”,
 - (b) after the definition of “domestic premises” insert—
 - ““early years childminder agency” means a person registered in the early years register as an early years childminder agency;”, and
 - (c) before the definition of “later years provision” insert—
 - ““later years childminder agency” means a person registered in Part A of the general childcare register as a later years childminder agency;”.
 - (3) After that subsection insert—
 - “(1A) A person is registered for the purposes of this Part if that person is registered—
 - (a) in the early years register,
 - (b) in the general childcare register, or
 - (c) with an early years childminder agency or a later years childminder agency.”