

2001 No. 1827

CHILDREN AND YOUNG PERSONS, ENGLAND

**Child Minding and Day Care (Disqualification) (England)
Regulations 2001**

<i>Made</i> - - - - -	<i>9th May 2001</i>
<i>Laid before Parliament</i>	<i>10th May 2001</i>
<i>Coming into force</i> - -	<i>2nd July 2001</i>

The Secretary of State for Education and Employment in exercise of the powers conferred by paragraph 4 of Schedule 9A to the Children Act 1989(a), and all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Child Minding and Day Care (Disqualification) (England) Regulations 2001 and shall come into force on 2nd July 2001.

(2) These Regulations extend only to England.

Interpretation

2. In these Regulations—

“the 2000 Act” means the Criminal Justice and Court Services Act 2000(b);

“disqualification order”, “qualifying sentence”, “relevant order” and “senior court” have the same meanings as in section 30 of the 2000 Act;

“disqualified” means disqualified for registration under Part XA of the Children Act 1989 for child minding or providing day care;

“offence against a child” has the meaning given in section 26 of the 2000 Act;

“rehabilitation period” has the same meaning as in the Rehabilitation of Offenders Act 1974(c);

“Tribunal” means the Tribunal established by section 9 of the Protection of Children Act 1999(d).

Offences against children

3.—(1) A person is, subject to paragraph (2) and regulation 9, disqualified if—

(a) he has been convicted of an offence against a child in respect of which a qualifying sentence has been imposed by a senior court; or

(b) he has been charged with an offence against a child in respect of which a relevant order has been imposed by a senior court; and

(a) 1989 c. 41; Schedule 9A was inserted into the Children Act 1989 by Schedule 3 to the Care Standards Act 2000 (c. 14). For the meaning of “prescribed” see section 105(1) of the 1989 Act and for the meaning of “regulations” see section 79B(7) of that Act (inserted by section 79 of the Care Standards Act 2000).

(b) 2000 c. 43.

(c) 1974 c. 53.

(d) 1999 c. 14.

- (c) where, in either case, the offence fell to be considered under Part II of the 2000 Act, the court has made a disqualification order in respect of that offence.

(2) A person shall not be disqualified under paragraph (1) in respect of any offence if the person has successfully appealed against the disqualification order (pursuant to section 31 of the 2000 Act) or if the Tribunal has determined (pursuant to section 32 of that Act) that he shall no longer be subject to the disqualification order unless the High Court has restored the disqualification order (pursuant to section 34 of that Act) following such a determination.

Offences against adults

- 4.—(1) A person is, subject to paragraph (2) and regulation 9, disqualified if he has been—
- (a) convicted of any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4 to the 2000 Act in respect of which a qualifying sentence has been imposed by a senior court; or
 - (b) charged with any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4 to the 2000 Act in respect of which a relevant order has been imposed by a senior court.

(2) A person shall cease to be disqualified under paragraph (1) where the rehabilitation period applicable to the conviction under the Rehabilitation of Offenders Act 1974 has expired save that, where the conviction is one for which there is no rehabilitation period, the person shall cease to be disqualified after the following periods from the date of conviction—

- (a) in the case of a person aged 18 or over at the date of conviction, 10 years; and
- (b) in the case of a person aged under 18 at the date of conviction, 5 years.

Protection of Children Act list

5. A person who is included in the list of persons kept under section 1 of the Protection of Children Act 1999 (list of those considered by the Secretary of State unsuitable to work with children) is disqualified.

Education Reform Act list

6. A person who is included on the grounds mentioned in subsection (6ZA)(c) of section 218 of the Education Reform Act 1988(a) in the list kept for the purposes of regulations(b) made under subsection (6) of that section (list of those who are prohibited or restricted from teaching) is disqualified.

Education Act 1996 list

7. A person who is included on the grounds that he is unsuitable to work with children in any list kept by the Secretary of State of persons who are subject to a disqualification imposed under section 470 or 471 of the Education Act 1996(c) (disqualification of persons from being proprietors of independent schools or from being teachers or employers in any school) is disqualified.

Persons living in a household where a disqualified person lives or works

8. Subject to regulation 9, a person who lives—
- (a) in the same household as a person who is himself disqualified; or
 - (b) in a household at which any such person is employed,
- is disqualified.

(a) 1998 c. 40; subsection (6ZA) was inserted by section 5 of the Protection of Children Act 1999 and subsection (6) was amended by that section and by section 290(3) of the Education Act 1993 (c. 35).

(b) The current Regulations are the Education (Restriction of Employment) Regulations 2000 (S.I. 2000/2419).

(c) 1996 c. 56.

Local authority waivers

9. Where a person would be disqualified by virtue of regulation 3, 4 or 8 but that person has, in relation to a registration for child minding or providing day care granted by a local authority pursuant to Schedule 9 to the Children Act 1989, disclosed the facts that would give rise to the disqualification to the authority and the authority have given their consent in writing then that person shall not, in respect of the facts so disclosed, be regarded as disqualified for the purpose of these Regulations.

9th May 2001

Margaret Hodge
Parliamentary Under Secretary of State,
Department for Education and Employment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the categories of persons who are disqualified from registration in England as child minders or providers of day care. Persons disqualified under these Regulations must not provide day care or be concerned in the management of, or have any financial interest in, any provision of day care. Nor must they be employed in connection with the provision of day care. The Regulations apply to applications for registration made, under Part XA of the Children Act 1989, on or after 2nd July 2001.

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