

2003 No. 332

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Child Minding and Day Care (Suspension of Registration)
(England) Regulations 2003**

<i>Made</i> - - - -	<i>25th February 2003</i>
<i>Laid before Parliament</i>	<i>4th March 2003</i>
<i>Coming into force</i> - -	<i>1st April 2003</i>

In exercise of the powers conferred on the Secretary of State by sections 79H(1) and (2) and section 104 of the Children Act 1989(a) and all other powers enabling him in that behalf the Secretary of State for Education and Skills hereby makes the following regulations:

Citation, commencement and extent

1.—(1) These regulations may be cited as the Child Minding and Day Care (Suspension of Registration) (England) Regulations 2003 and shall come into force on 1st April 2003.

(2) These regulations extend only to England.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Children Act 1989 and any references to sections are references to sections of that Act;

“act as a child minder” has the same meaning as in section 79A(2);

“Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England;

“costs order” has the same meaning as in the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(b);

“day care” has the same meaning as in section 79A(6);

“registered person” means a person who acts as a child minder or who provides day care and who is registered under section 79F; and

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

(a) 1989 c.41. Section 79H was inserted by section 79(1) of the Care Standards Act 2000 (c.14).

(b) S.I. 2002/816.

(c) 1999 c.14.

Power to suspend registration

3.—(1) The Chief Inspector may, in accordance with regulations 4, 5, 6 and 7, suspend the registration of any person acting as a child minder or providing day care if he has reasonable cause to believe that the continued provision of child minding or day care by that person exposes or may expose one or more of the children to whom it is or may be provided to the risk of harm and the purpose of the suspension is for one or both of the purposes set out in paragraph (2).

(2) The purposes of the suspension are—

- (a) to allow time for the circumstances giving rise to the Chief Inspector's belief to be investigated;
- (b) to allow time for steps to be taken to reduce or eliminate the risk of harm.

Period of suspension

4.—(1) Where the Chief Inspector exercises his power to suspend the registration of any person in accordance with these regulations, the suspension shall have effect for a period of 6 weeks beginning on the date specified in the notification of suspension given to the registered person in accordance with regulations 5 and 6.

(2) Subject to paragraph (3), the exercise of the Chief Inspector's power to suspend a person's registration shall not prevent any further exercise of that power, at any time, on the same or different grounds and, in particular, where—

- (a) the investigation being carried out or the steps to be taken under sub-paragraphs (2)(a) or (2)(b) respectively of regulation 3 are incomplete; or
- (b) the Chief Inspector has decided to take action against the registered person under section 79K (emergency application to court).

(3) Where a further period of suspension is based on the same grounds as the period of suspension immediately preceding that further period of suspension, the Chief Inspector's power to suspend a person's registration shall not be exercised so as to give rise to a continuous period of suspension exceeding 12 weeks in aggregate unless it has not been reasonably practicable (for reasons beyond the control of the Chief Inspector) to complete the investigation or carry out the steps under sub-paragraphs (2)(a) and (2)(b) respectively of regulation 3.

Notification of suspension, etc.

5. The Chief Inspector shall, in accordance with regulation 6, give the registered person notice of any suspension of registration made under these Regulations and any such notice shall include the reasons for the decision and details of the registered person's right of appeal against suspension.

6.—(1) A notice under these Regulations may be given by being delivered personally to the registered person, sent by post in a registered letter or by the recorded delivery service or by being transmitted electronically.

(2) A letter to a registered person enclosing a notice under these Regulations shall be deemed to be properly addressed if it is addressed to the registered person at the home address notified to the Chief Inspector upon the registered person's application for registration or subsequently.

(3) A notice is transmitted electronically for the purposes of paragraph (1) where the particulars contained in the notice are transmitted by electronic means from a computer system operated by the Chief Inspector to a computer system operated by the registered person at any number or address used for the purposes of electronic communications notified by that person to the Chief Inspector.

Lifting of suspension

7.—(1) Without prejudice to regulation 4(2), where the Chief Inspector has suspended a person's registration, he shall, whether or not a written request has been made under paragraph

(2), lift the suspension at any time where he is satisfied that the grounds for suspension no longer apply.

(2) A person whose registration has been suspended under these Regulations may, at any time, make a written request to the Chief Inspector that the suspension be lifted.

(3) Where the Chief Inspector makes a decision to lift or to refuse to lift the suspension of a person's registration, he shall, within 24 hours and in accordance with regulation 6, send a notice of his decision to the registered person.

(4) Where the Chief Inspector decides not to lift the suspension of a person's registration, the notice under paragraph (3) shall include the reasons for the decision and details of the registered person's right of appeal against the decision.

(5) Any decision by the Chief Inspector to lift suspension shall take effect as from the date specified in the written notice referred to in paragraph (3).

Rights of Appeal

8.—(1) A person whose registration has been suspended under these Regulations may appeal to the Tribunal against—

- (a) the Chief Inspector's decision to suspend that person's registration;
- (b) the Chief Inspector's refusal to lift that suspension when requested to do so in accordance with regulation 7(2).

(2) Subject to paragraph (3), on an appeal under paragraph (1), the Tribunal may—

- (a) confirm the Chief Inspector's decision to suspend registration or, as the case may be, his refusal to lift the suspension;
- (b) direct that the suspension shall cease to have effect

and, for the avoidance of doubt, in any case in which the Tribunal exercises its power under (a) it may also exercise its power under (b) if at the time of making its determination it is satisfied that the conditions for suspension are no longer met.

(3) If the suspension of a person's registration against which an appeal has been made under paragraph (1) is no longer in effect, the Tribunal:

- (a) shall dismiss the appeal; and
- (b) may make a costs order.

(4) The making of an appeal under sub-paragraph (1)(a) shall not preclude a person to whom this regulation applies from making a further appeal under sub-paragraph (1)(b).

25th February 2003

Catherine Ashton
Parliamentary Under Secretary of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the circumstances in which a person's registration as a child minder or a day care provider may be suspended by the Chief Inspector. They also set out the circumstances in which the Chief Inspector must consider lifting the suspension. The Regulations prescribe the time limits for suspension and include the rights of appeal to the Tribunal established under the Protection of Children Act 1999.

£1. 75

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0258 03/2003 130322 19585

ISBN 0-11-044995-9



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