

2005 No. 2297

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Day Care and Child Minding (Suitability) (England)
Regulations 2005**

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| <i>Made</i> - - - - | <i>16th August 2005</i> |
| <i>Laid before Parliament</i> | <i>25th August 2005</i> |
| <i>Coming into force</i> - - | <i>3rd October 2005</i> |

In exercise of the powers conferred on the Secretary of State by section 79B(5A) of the Children Act 1989(a) the Secretary of State for Education and Skills hereby makes the following regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Day Care and Child Minding (Suitability) (England) Regulations 2005 and shall come into force on 3rd October 2005.

(2) These Regulations apply only in relation to England.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“the Act” means the Children Act 1989;

“applicant” means a person whose application for registration for child minding or for providing day care is under consideration by the Chief Inspector;

“registered person” mean a person who is registered under Part 10A of the Act for child minding or for providing day care;

“relevant premises” means, in relation to an applicant or a registered person, any premises on which he is, or is likely to be child minding or providing day care;

“relevant qualification” means a qualification evidencing competence, or level of competence, in an area that is, or areas that are, or in the opinion of the Chief Inspector may be, relevant to the assessment of A’s suitability(b);

“social services functions” means functions which are social services functions for the purposes of the Local Authority Social Services Act 1970(c);

“suitable” means suitable, as the case may be—

(a) 1989 c.41: section 79B was inserted into the Children Act 1989 by section 79(1) of the Care Standards Act 2000 (c.14). Subsection (5A) was inserted into section 79B by section 152 of and paragraph 1 of Schedule 13 to the Education Act 2002 (c.32). For the definition of ‘prescribed’, see section 105(1) of the Act and for the meaning of ‘regulations’, see section 79B(7).

(b) “A” being the person defined in section 79B(5A) of the Act as the person who is requested to consent to the disclosure.

(c) 1970 c. 39.

- (a) to look after children under the age of eight; or
- (b) to be in regular contact with such children.

Regarding A as not suitable

3. The Chief Inspector may, in the circumstances set out in section 79B(5A) of the Act, regard A as not suitable to look after children under the age of eight, or not suitable to be in regular contact with such children.

Prescribed description of information

4. For the purposes of section 79B(5A) of the Act, the following descriptions of information are prescribed:—

- (a) information for the purpose of confirming the identity of A;
- (b) information about A contained in a certificate issued pursuant to sections 113 or 113A (criminal records certificates) or sections 115 or 113B (enhanced criminal record certificates) of the Police Act 1997(a);
- (c) information confirming relevant qualifications claimed by A;
- (d) information as to the health of A held by a medical practitioner;
- (e) information, other than information of a kind described in paragraphs (a) to (d), going to the character or capacity or to the employment record or other relevant experience of A held by an educational institution currently or formerly attended by A, an employer or former employer of A or a medical practitioner;
- (f) information going to the character of A held by the governing body or proprietor of a school which was or is attended by any of A's children or children for whom A has parental responsibility;
- (g) information about A held by a local authority in connection with the exercise of its social services functions;
- (h) information about A, whether of a kind described in paragraphs (a) to (g) or not, held by the National Assembly for Wales in pursuance of its functions as registration authority under Part XA of the Care Standards Act 2000;
- (i) information about A, whether of a kind described in paragraphs (a) to (g) or not, held by the Scottish Commission for the Regulation of Care, pursuant to Part I of the Regulation of Care (Scotland) Act 2001(b);
- (j) information about A, whether of a kind described in paragraphs (a) to (g) or not, held by a Health and Social Services Board pursuant to Part XI of the Children (Northern Ireland) Order 1995(c);
- (k) information about A, whether of a kind described in paragraphs (a) to (g) or not, held by a body acting on behalf of the Crown in the Channel Islands or the Isle of Man;
- (l) information about A, whether of a kind described in paragraphs (a) to (g) or not, held by the national authority of any other member State of the European Economic Area having functions comprising the regulation of childcare.

Beverley Hughes
Minister of State

16th August 2005

Department for Education and Skills

(a) 1997 c. 50: Section 113 and 115 are repealed by section 163(1) of the Serious Organised Crime and Police Act 2005 (c.15) and reenacted with modification in sections 113A and 113B respectively which are inserted by section 163(2) of the 2005 Act. Sections 163(1) and (2) of the 2005 Act are to be commenced in relation to England on a date to be appointed by the Secretary of State (section 178(8) of the 2005 Act).

(b) 2001 asp 8.

(c) S.I 1995/755 (N.I. 2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the information which the Chief Inspector may ask a person applying for registration as a child minder or provider of day care to consent to the disclosure of. *(Regulation 4)* The Regulations also provide that failure to consent to the disclosure of this information or withdrawal of such consent entitles the Chief Inspector to regard the person as not suitable to look after children under the age of eight or to be in regular contact with such children. *(Regulation 3)* Where the term 'A' is used in the regulations, this refers to the person defined as 'A' in section 79B(5A) of the Act.

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