

EXPLANATORY MEMORANDUM TO

**THE CHILD MINDING AND DAY CARE (APPLICATIONS FOR
REGISTRATION) (ENGLAND) (AMENDMENT) REGULATIONS 2005**

2005 No. 2448

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These Regulations amend The Child Minding and Day Care (Applications for Registration) Regulations 2001 (SI 2001/1829) by removing the requirement on applicants for day care registration to provide details of all those looking after children.
3. **Matters of special interest to the Joint Committee on Statutory Instruments:**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Section 79C of the Children Act 1989 ("the 1989 Act") provides that the Secretary of State may make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in England.
 - 4.2 Section 74B(4) of the Children Act 1989 which provides when a person is qualified for registration was amended by section 48 of, and paragraphs 1 and 6(a) of Schedule 4 to, the Children Act 2004 with the result that it no longer falls to Ofsted to carry out checks on staff in day care provision to ensure that they are suitable to look after or be with children. This responsibility will remain with the applicant for registration or registered person as part of the proper discharge of their recruitment and employment functions.
5. **Extent**
 - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
 - 6.1 No statement is required.

7. Policy background

- 7.1 The Chief Inspector (Ofsted) is currently required to check on the suitability of day care staff and others who live or work on the premises to ensure that they are suitable to look after or be in regular contact with children. As a result of the change to section 79B(4) of the Children Act 1989, Ofsted is now only required to check that the applicant and responsible individual are suitable to look after children or (if not looking after children) be in regular contact with them. The application form for registration for day care, therefore, should only give details of the applicant and any responsible individual. Responsibility for checking members of staff will remain with the employer as part of pre-employment checks and the requirement for the employer to provide their details to Ofsted in the application has therefore been removed. As part of their duty to check that applicants comply with the national standards for under 8s day care and childminding, Ofsted will check that applicants have effective procedures for undertaking their own suitability checks.
- 7.2 The consultation which took place leading up to the Children Act 2004 included the policy move which gave rise to this set of regulations

8. Impact

8.1 A regulatory Impact Assessment has not been prepared for this instrument as it has no additional costs for providers. Production and distribution costs for the standards have been met within DfES and Ofsted budgets

9. Contact

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