

**EXPLANATORY MEMORANDUM TO
THE CHILDCARE (VOLUNTARY REGISTRATION) (AMENDMENT)
REGULATIONS 2008**

2008 No. 793

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This statutory instrument is made under the Childcare Act 2006 (“the 2006 Act”) and makes an amendment to the Childcare (Voluntary Registration) Regulations 2007, S.I. 2007/730 (“the 2007 Regulations”) by introducing an annual fee payable by persons registered in Part B of the general childcare register under Chapter 4 of Part 3 of the 2006 Act (“the voluntary register”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The 2007 Regulations make provision about registration in the voluntary register which was established on 6th April 2007. An application for registration must be accompanied by the fee prescribed in those Regulations.

4.2 Section 89(1) of the 2006 Act provides that the Secretary of State may also prescribe other fees to be payable by registered persons to Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (“the Chief Inspector”) in respect of the discharge of the Chief Inspector’s functions under Part 3 of the 2006 Act. These Regulations amend the 2007 Regulations by inserting a provision requiring an annual fee to be paid by childcare providers registered on the voluntary register.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Government's ten year strategy for childcare, *Choice for parents, the best start for children*, set out plans to reform the regulation of childcare.

7.2 The 2006 Act reforms the regulation and inspection regime for childcare. The Chief Inspector will administer two registers: the Early Years Register for provision for children up to the age of five, and the General Childcare Register which is divided into two Parts. Part A relates to childcare for children aged from five up to age eight and Part B (the voluntary register) relates to childcare that is not required to be registered on the other registers.

7.3 Providers of childcare who are not currently required to be registered by the Chief Inspector (including activity based provision such as sports, drama, language or arts clubs, care provided in a child's own home and care or supervised activities for children of eight and over) are able to apply to join the voluntary register. The 2007 Regulations set the registration fee at £100 for childminders or people providing care in the child's home, and £110 for other providers of childcare (usually on non-domestic premises), but do not include provision for the payment of an annual fee.

7.4 It was the Government's intention that registration in the voluntary register would be subject to an annual fee to cover the on-going costs to Ofsted of administering the register and carrying out the Chief Inspector's functions under Part 3 of the 2006 Act. The inclusion of this fee was postponed to allow Ofsted to review the costs of operating the new register and to consider the fee levels alongside the Government's wider consultation on the future approach to fees and subsidies for childcare from September 2008. Some providers who are registered on the voluntary register are now approaching the anniversary of their date of registration and it has been agreed that, where an annual fee is payable by a registered person prior to 1st September 2008, the fee should be the same as the current registration fee. On 1st September 2008, new regulations under made the 2006 Act will introduce a new fees regime for all the childcare registers, including the voluntary register.

Consultation

7.5 The Government consulted publicly on the voluntary register from July to September 2006. The consultation document made clear that the intention was to operate the General Childcare Register at full cost recovery and that the Government considered it appropriate that providers pay a reasonable fee for registration and to confirm annually that they are continuing to meet the requirements. It also said that decisions about the actual level of fees to be charged both for initial registration and annually would be considered as part of a wider consultation on fees.

7.6 This consultation, entitled "Childcare Act 2006: Future Approach to Fees

and Subsidies”, ran from 21 November 2007 to 20 February 2008. It proposed that the registration and annual renewal fee for both the voluntary and compulsory elements of the General Childcare Register would be the same until 1st September 2008 but should then rise to £103 (an increase of £3) for individual carers and £114 (an increase of £4) for other (mostly group) carers. This increase is to take account of inflation since September 2006. The responses to the consultation raised no concerns with this approach on the voluntary register and a full response to the other issues raised will be published shortly after this Explanatory Memorandum.

Guidance

7.7 New and existing providers will have been made aware of the need to pay an annual fee when they joined the voluntary register through Ofsted’s guidance and application procedure, and through reminder letters as they approach the end of their first year of registration.

8. Impact

As these regulations propose no increase in real terms and are in line with inflation there is no need to produce an Impact Assessment.

9. Contact

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