

*Status: Point in time view as at 01/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008. (See end of Document for details)*

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## STATUTORY INSTRUMENTS

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# 2008 No. 976

## CHILDREN AND YOUNG PERSONS, ENGLAND

### The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008

<i>Made</i>	- - - -	<i>31st March 2008</i>
<i>Laid before Parliament</i>		<i>11th April 2008</i>
<i>Coming into force</i>	- -	<i>1st September 2008</i>

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 37(3), 56(3), 64(3), 69(1) and (2), 90(2), 92(3), 96(6) (b) and 104(2) of the Childcare Act 2006 <sup>M1</sup>:

#### Marginal Citations

**M1** 2006 c.21. See section 98(1) for the definitions of “prescribed” and “regulations”.

## PART 1 **E+W**

### General

#### Citation and commencement **E+W**

1. These Regulations may be cited as the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 and come into force on 1st September 2008.

#### Interpretation **E+W**

2. In these Regulations—

“the Act” means the Childcare Act 2006;

“registered person” means a person who is registered under Chapter 2 (regulation of early years provision), Chapter 3 (regulation of later years provision for children under 8) or Chapter 4 (voluntary registration) of the Act.

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### Prescribed day for the purposes of the definition of “later years provision” **E+W**

3. The day prescribed for the purposes of section 96(6)(b) of the Act is the day on which the child attains the age of 18.

## PART 2 **E+W**

### Disclosure of information

#### Power of Chief Inspector where consent to disclosure withheld **E+W**

4. The Chief Inspector <sup>M2</sup> may, in the circumstances set out in section 90(2) of the Act, treat the prescribed requirements for registration as not being satisfied or (as the case may be) as having ceased to be satisfied.

#### Marginal Citations

**M2** For the definition of “the Chief Inspector” see [section 98\(1\)](#) of the Childcare Act 2006, as amended by paragraph 117 of Schedule 14 to the [Education and Inspections Act 2006 \(c. 40\)](#).

#### Prescribed descriptions of information **E+W**

5.—(1) Information is of a prescribed description for the purposes of section 90(2)(a)(iii) if it falls within any of the descriptions set out in paragraph (2).

(2) The information—

- (a) confirms the identity of A <sup>M3</sup>;
- (b) is information about A contained in a criminal record certificate issued under section 113A of the Police Act 1997 <sup>M4</sup> or in an enhanced criminal record certificate issued under section 113B <sup>M5</sup> of that Act;
- (c) confirms a relevant qualification claimed by A;
- (d) is information about the health of A held by a medical practitioner;
- (e) is information, other than information of a kind referred to in sub-paragraphs (a) to (d), about the character, employment record or other relevant experience of A held by—
  - (i) an educational institution currently or formerly attended by A,
  - (ii) an employer or former employer of A, or
  - (iii) a medical practitioner;
- (f) is information about the character of A held by the governing body or proprietor of a school which was or is attended by a child of A or a child for whom A has parental responsibility;
- (g) is information about A held by a local authority in connection with the exercise of its social services functions;
- (h) is information about A, whether or not of a kind described in sub-paragraphs (a) to (g), held by—
  - [<sup>F1</sup>(i) the Welsh Ministers in pursuance of their functions as registration authority under Part 2 of the Children and Families (Wales) Measure 2010;]
  - (ii) the Scottish Commission for the Regulation of Care, pursuant to Part 1 of the Regulation of Care (Scotland) Act 2001 <sup>M6</sup>;

- (iii) a Health and Social Services Board, pursuant to Part 11 of the Children (Northern Ireland) Order 1995 <sup>M7</sup>;
  - (iv) a body acting on behalf of the Crown in the Channel Islands or the Isle of Man;
  - (v) the national authority of any other member state of the European Economic Area having functions comprising the regulation of childcare.
- (3) In this regulation—
- “employment” includes work undertaken on a self-employed or voluntary basis (and “employer” is to be read accordingly);
- “relevant qualification” means a qualification evidencing competence, or level of competence, in an area that is relevant to the Chief Inspector's function of deciding whether or not to grant an application for registration under Chapter 2, 3 or 4 of the Act, or to the function under section 68(2)(a) of the Act;
- “social services functions” means any functions which are social services functions for the purposes of the Local Authority Social Services Act 1970 <sup>M8</sup>.

#### Textual Amendments

- F1** Reg. 5(2)(h)(i) substituted (W.) by S.I. 2010/2582, **Sch. 4 para. 21** (as inserted (1.4.2011) by [The Children and Families \(Wales\) Measure 2010 \(Commencement No.2, Savings and Transitional Provisions\) \(Amendment\) and \(Consequential Amendments\) Order 2011 \(S.I. 2011/577\)](#), art. 2(3), **Sch.**)

#### Marginal Citations

- M3** Reference to “A” is made in section 90(2)(a) of the Childcare Act 2006.
- M4** 1997 c.50. Section 113A was inserted by section 163(2) of the [Serious Organised Crime and Police Act 2005 \(c.15\)](#), and was amended by paragraph 14 of Schedule 9 to the [Safeguarding Vulnerable Groups Act 2006 \(c.47\)](#) and sections 78(2) and 79(1) of, and paragraph 28 of Schedule 4 to, the [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#).
- M5** Section 113B was inserted by section 163(2) of the [Serious Organised Crime and Police Act 2005](#), and was amended by paragraph 14 of Schedule 9 to the [Safeguarding Vulnerable Groups Act 2006](#), paragraph 149 of Schedule 16 to the [Armed Forces Act 2006 \(c.52\)](#) and sections 79(1) and 80 of the [Protection of Vulnerable Groups \(Scotland\) Act 2007](#).
- M6** 2001 asp 8.
- M7** S.I. 1995/755 (N.I.2).
- M8** 1970 c.42.

## PART 3 **E+W**

### Certificates of registration

#### Content of certificate of registration **E+W**

6. A certificate of registration given in accordance with section 37, 56 or 64 must contain the following information—
- (a) the name of the registered person;
  - (b) the date of registration;

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- (c) any unique reference number or other identifier issued by the Chief Inspector in respect of the registration;
- (d) whether the registered person is registered in the early years register, Part A of the general childcare register or Part B of the general childcare register <sup>M9</sup>;
- (e) whether the registered person is registered as a childminder or as a provider of childcare other than childminding;
- (f) any conditions imposed on the registered person's registration under section 38, 58 or 66 of the Act, and the date on which they were imposed;
- (g) where the registered person is registered as a provider of childcare other than childminding, the address of the premises in respect of which that person is registered.

#### **Marginal Citations**

**M9** See section 32 of the Childcare Act 2006 for the requirement on the Chief Inspector to maintain the early years register and the general childcare register.

#### **Content of combined certificate of registration** **E+W**

7. A combined certificate of registration given in accordance with section 92 of the Act must contain the name of the registered person and the information specified in regulation 6(b) to (g) in respect of each registration of that person.

## **PART 4** **E+W**

### Suspension of registration

#### **Suspension of registration** **E+W**

8. The registration of a registered person may be suspended by the Chief Inspector, by notice, in the circumstances prescribed in regulation 9 for the period prescribed in regulation 10.

#### **Circumstances in which registration may be suspended** **E+W**

9. The circumstances prescribed for the purposes of section 69(1) of the Act are that the Chief Inspector reasonably believes that the continued provision of childcare by the registered person to any child may expose such a child to a risk of harm.

#### **Suspension of registration: further provisions** **E+W**

10.—(1) Subject to paragraph (2), the period for which the registration of a registered person may be suspended is six weeks beginning with the date specified in the notice of suspension given in accordance with paragraph (4).

(2) Subject to paragraph (3), in a case in which a further period of suspension is based on the same circumstances as the period of suspension immediately preceding that further period of suspension, the Chief Inspector's power to suspend registration may only be exercised so as to give rise to a continuous period of suspension of 12 weeks.

(3) Where, however, it is not reasonably practicable (for reasons beyond the control of the Chief Inspector)—

- (a) to complete any investigation into the grounds for the Chief Inspector's belief referred to in regulation 9, or
- (b) for any necessary steps to be taken to eliminate or reduce the risk of harm referred to in regulation 9,

within a period of 12 weeks, the period of suspension may continue until the end of the investigation referred to in sub-paragraph (a), or until the steps referred to in sub-paragraph (b) have been taken.

(4) A notice under regulation 8 may be given to the registered person—

- (a) by delivering it to the registered person,
- (b) by sending it by post, or
- (c) subject to paragraph (5), by transmitting it electronically.

(5) If the notice is transmitted electronically, it is to be treated as given to the registered person only if—

- (a) the registered person has indicated to the Chief Inspector a willingness to receive notices transmitted by electronic means and has provided an address suitable for that purpose, and
- (b) the notice is sent to that address.

### Lifting of suspension **E+W**

11. If, at any time during a period of suspension under regulation 8, it appears to the Chief Inspector that the circumstances prescribed in regulation 9 no longer exist, the Chief Inspector must lift the suspension.

### Appeal against suspension **E+W**

12.—(1) A registered person whose registration has been suspended under regulation 8 may appeal to the [F2First-tier Tribunal] against the suspension.

(2) On an appeal under paragraph (1), the [F2First-tier Tribunal] must either—

- (a) confirm the Chief Inspector's decision to suspend registration, or
- (b) direct that the suspension shall cease to have effect.

(3) In a case where the suspension of a registered person's registration ends before the [F2First-tier Tribunal] determines the appeal in accordance with paragraph (2), the [F2First-tier Tribunal] must dismiss the appeal.

#### Textual Amendments

**F2** Words in [reg. 12](#) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, [Sch. 1 para. 343](#)

### Meaning of “harm” **E+W**

13. In this Part of these Regulations, “harm” has the same meaning as in section 31(9) of the Children Act 1989 <sup>M10</sup>.

#### Marginal Citations

**M10** [Section 31\(9\)](#) was amended by section 120 of the [Adoption and Children Act 2002 \(c.38\)](#).

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Department for Children, Schools and Families

*Beverley Hughes*  
Minister of State

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations contain provisions which are common to the registration of childcare providers in the early years register and the general childcare register. Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector") is required to maintain these registers by section 32 of the Childcare Act 2006 ("the Act"). The general childcare register is divided into Part A (later years provision for children under the age of 8) and Part B (voluntary registration).

Regulation 3 prescribes the date when a child reaches the age of 18 as the upper age limit for "later years provision" (as defined in section 96 of the Act). Consequently, a person providing childcare for children up to the age of 18 can be registered in Part B of the general childcare register.

Regulation 4 provides that the Chief Inspector can treat the requirements for registration as not being satisfied if consent is not given to the release of certain information to the Chief Inspector held by a third party. Regulation 5 prescribes the types of information in question.

Regulations 6 and 7 prescribe the information that must be contained in a certificate of registration issued to a person who is registered in the early years register or in the general childcare register, and in a combined certificate of registration issued to a person who is registered more than once.

Regulations 8 to 13 contain provisions about the Chief Inspector's power to suspend a person's registration. Under regulation 9, registration can be suspended where there is or could be a risk of harm to a child. Regulation 10 provides for the maximum period of suspension and makes further provision as to the notice of suspension. Regulation 12 provides for a right of appeal against suspension.

An Impact Assessment has not been produced for this instrument as no impact on business, charities or voluntary bodies is foreseen, and the impact on the public sector is minimal.

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