

2014 No. 1922

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Childcare (Childminder Agencies) (Cancellation etc.)
Regulations 2014**

<i>Made</i>	- - - -	<i>6th August 2014</i>
<i>Laid before Parliament</i>		<i>11th August 2014</i>
<i>Coming into force</i>	- -	<i>1st September 2014</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 69A, 69B(4) and 104(2) of the Childcare Act 2006(a).

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Childcare (Childminder Agencies) (Cancellation etc.) Regulations 2014 and come into force on 1st September 2014.

Interpretation

2. In these Regulations—

“the Act” means the Childcare Act 2006;

“provider” means a person who is registered with a childminder agency.

PART 2

Cancellation, Termination and Suspension of Registration with a Childminder Agency

Cancellation of registration

3.—(1) A childminder agency may cancel the registration of a provider registered with it for the purposes of Chapter 2, 3 or 4 of Part 3 of the Act and must do so if it appears to the agency that the provider has become disqualified from registration by regulations under section 75 of the Act.

(a) 2006 c. 21; sections 69A and 69B were inserted by section 84 of, and paragraphs 35 and 36 respectively of Schedule 4 to, the Children and Families Act 2014 (c. 6). See section 106 of the Childcare Act 2006 for the definition of “regulations”.

(2) In the case of a provider registered under Chapter 4 of Part 3 of the Act, the childminder agency must cancel that provider's registration where the provider is no longer registered under Chapter 2 or 3.

Procedure for cancellation of registration

4.—(1) Where a childminder agency proposes to cancel a provider's registration it must give the provider notice of its intention to do so ("a notice of intention").

(2) A notice of intention must—

- (a) be in writing;
- (b) give reasons for the proposed cancellation; and
- (c) specify a reasonable period within which the provider may make representations to the agency in respect of the proposed cancellation.

(3) The period specified pursuant to paragraph (2)(c) must be no less than 14 days beginning with the date on which the notice of intention is given.

(4) If the agency decides to proceed with cancellation of the provider's registration, it must give the provider notice of its decision ("a decision notice").

(5) A decision notice—

- (a) must not be given before the end of the period specified under paragraph (2)(c); and
- (b) must specify the date on which cancellation of registration will take effect.

(6) The date specified pursuant to paragraph (5)(b) must be no less than 28 days beginning with the date on which the decision notice is given.

Termination of registration by a provider

5.—(1) A provider ("P") may give notice to a childminder agency that P wishes to terminate registration with that agency for the purposes of Chapter 2, 3 or 4 of Part 3 of the Act.

(2) If P gives notice under paragraph (1), the childminder agency must—

- (a) remove P from the relevant register maintained by the agency; and
- (b) provide P with written confirmation that P has been removed from the register.

(3) The childminder agency must not act under paragraph (2) if—

- (a) it has given P notice of its intention to cancel P's registration under that Chapter (in pursuance of regulation 4(1)); and
- (b) has not, since giving that notice, taken the decision not to proceed with cancellation of P's registration.

(4) Paragraph (3) does not apply in the case of termination of registration for the purposes of Chapter 4 of Part 3 of the Act.

Circumstances in which registration may be suspended

6.—(1) A childminder agency may suspend the registration of a provider registered with it for the purposes of Chapter 2, 3 or 4 of Part 3 of the Act in circumstances where the agency reasonably believes that the continued provision of childcare by that provider to any child may expose such a child to a risk of harm.

(2) In this Regulation, "harm" has the same meaning as in section 31(9) of the Children Act 1989(a).

(a) 1989 c. 41; section 31(9) was amended by section 120 of the Adoption and Children Act 2002 (c. 38).

Suspension of registration: further provisions

7.—(1) Where a childminder agency suspends a provider's registration under regulation 6(1), it must give that provider a notice of suspension.

(2) The period for which a provider's registration may be suspended is six weeks beginning with the date specified in the notice of suspension.

(3) Except in the circumstances outlined in paragraph (4), 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 childminder agency's power to suspend registration may only be exercised so as to give rise to a continuous period of suspension of 12 weeks.

(4) Where it is not reasonably practicable within a period of 12 weeks—

- (a) to complete any investigation into the grounds for the childminder agency's belief referred to in regulation 6(1), or
- (b) for any necessary steps to be taken to eliminate or reduce the risk of harm referred to in regulation 6(1),

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.

Lifting of suspension

8. If, at any time during a period of suspension under regulation 6(1), it appears to the childminder agency that the circumstances set out in that regulation no longer exist, the agency must lift the suspension.

Appeal against suspension

9.—(1) A provider whose registration has been suspended under regulation 6(1) may appeal to the First-tier Tribunal against the suspension.

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

- (a) confirm the childminder agency's decision to suspend registration, or
- (b) direct that the suspension ceases to have effect.

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

Effect of suspension

10.—(1) A provider who is registered under Chapter 2 of Part 3 of the Act may not provide early years provision in England at any time when that provider's registration under that Chapter is suspended in accordance with regulation 6.

(2) A provider who is registered under Chapter 3 of Part 3 of the Act may not provide later years provision in England, for a child who has not attained the age of eight, at any time when that provider's registration under that Chapter is suspended in accordance with regulation 6.

(3) Paragraphs (1) and (2) do not apply in relation to early or later years provision which the provider may provide without being registered under Chapter 2 or 3 of Part 3 of the Act.

Offences

11.—(1) A provider commits an offence if, without reasonable excuse, he contravenes regulation 10(1) or (2).

(2) A provider who is guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Notices

12.—(1) In this Part of these Regulations, where a notice is to be given to a person, it may be given to that person—

- (a) by delivering it to the person,
- (b) by sending it by post, or
- (c) subject to paragraph (2), by transmitting it electronically.

(2) If the notice is transmitted electronically, it is to be treated as given only if the following requirements are met—

- (a) the person to whom the notice is to be given must have indicated a willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose, and
- (b) the notice must be sent to the address provided.

PART 3

Effect of Cancellation of Registration of a Childminder Agency

Effect of cancellation of an early years childminder agency

13.—(1) The effect of the cancellation of the registration of an early years childminder agency on a provider who is registered with that agency at the point of cancellation is as follows—

- (a) in the case of an early years childminder who is registered under Chapter 2 of Part 3 of the Act, the childminder is deemed registered in the early years register under section 37(1) of the Act;
- (b) in the case of an early years provider (other than a childminder) who is registered under Chapter 2 of Part 3 of the Act, the provider is deemed registered in the early years register under section 37(2) of the Act;
- (c) in the case of an early or later years childminder who is registered under Chapter 4 of Part 3 of the Act, the childminder is deemed registered in Part B of the general childcare register under section 64(1) of the Act;
- (d) in the case of an early or later years provider (other than a childminder) who is registered under Chapter 4 of Part 3 of the Act, the provider is deemed registered in Part B of the general childcare register under section 64(2) of the Act.

(2) Paragraph (1) does not apply in circumstances where—

- (a) the provider (“P”) has provided the Chief Inspector with written confirmation that P does not wish to be registered in the early years register or Part B of the general childcare register; or
- (b) it appears to the Chief Inspector that P is disqualified from registration by regulations under section 75 of the Act.

(3) In the circumstances described in paragraph (2) the effect of the cancellation of the registration of an early years childminder agency is that the provider is not registered for the purposes of Part 3 of the Act.

(4) In this regulation “the point of cancellation” means—

- (a) the time at which the possibility of the early years childminder agency bringing an appeal against cancellation of registration under section 74 of the Act expires, or
- (b) if such an appeal is brought, the time when the appeal is determined (and the taking of the step is confirmed under section 74(4)(a) of the Act).

Effect of cancellation of a later years childminder agency

14.—(1) The effect of the cancellation of the registration of a later years childminder agency on a provider registered with that agency at the point of cancellation is as follows—

- (a) in the case of a later years childminder who is registered under Chapter 3 of Part 3 of the Act, the childminder is deemed registered in Part A of the general childcare register under section 56(1) of the Act;
- (b) in the case of a later years provider (other than a childminder) who is registered under Chapter 2 of Part 3 of the Act, the provider is deemed registered in Part A of the general childcare register under section 56(2) of the Act;
- (c) in the case of an early or later years childminder who is registered under Chapter 4 of Part 3 of the Act, the childminder is deemed registered in Part B of the general childcare register under section 64(1) of the Act;
- (d) in the case of an early or later years provider (other than a childminder) who is registered under Chapter 4 of Part 3 of the Act, the provider is deemed registered in Part B of the general childcare register under section 64(2) of the Act.

(2) Paragraph (1) does not apply in circumstances where—

- (a) the provider (“P”) has provided the Chief Inspector with written confirmation that P does not wish to be treated as registered in that Part of the register; or
- (b) it appears to the Chief Inspector that P is disqualified from registration by regulations under section 75 of the Act.

(3) In the circumstances described in paragraph (2) the effect of the cancellation of the registration of the later years childminder agency is that the provider is not registered for the purposes of Part 3 of the Act.

(4) In this regulation “the point of cancellation” means—

- (a) the time at which the possibility of the later years childminder agency bringing an appeal against the cancellation under section 74 of the Act expires, or
- (b) if such an appeal is brought, the time when the appeal is determined (and the taking of the step is confirmed under section 74(4)(a) of the Act).

6th August 2014

John Nash
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the cancellation, termination and suspension of the registration of providers of childcare who are registered with an early or later years childminder agency for the purposes of Part 3 of the Childcare Act 2006 (“the Act”). They also make provision about the effect of the cancellation of a childminder agency’s registration on providers who are registered with that agency.

Regulation 3 sets out the circumstances in which a childminder agency must cancel a provider’s registration. A childminder agency may cancel a provider’s registration in any other circumstances but, in all cases, must follow the procedure outlined in regulation 4.

Regulation 5 sets out the procedure to be followed by a childminder agency where a registered provider gives notice that he or she wishes to terminate his or her registration. The agency is generally required to remove the provider from the relevant register which it maintains under Chapter 2, 3 or 4 of Part 3 of the Act. However, the agency must not do so where it has already given notice of its intention to cancel the provider’s registration and has not, since issuing that notice, decided against that step. These restrictions on removal do not apply to providers who wish

to terminate their registration under Chapter 4 of Part 3 of the Act (which provides for a process of voluntarily registration for persons who are otherwise exempt).

Regulation 6 sets out the grounds on which a childminder agency may suspend a provider's registration. Regulations 7 and 8 make further provision about periods of suspension and the lifting of suspension. The effect of suspension of registration is set out in Regulation 10; a provider whose registration is suspended must not provide childcare provision in respect of which the requirement to register arises under Part 3 of the Act. A failure to comply constitutes an offence as set out in Regulation 11. Regulation 9 confers a right of appeal against suspension of registration to the First-tier Tribunal.

Regulations 13 and 14 make provision about the effect of cancellation of a childminder agency's registration on providers registered with that agency. Providers who are still registered with the agency at the time when cancellation takes effect are deemed registered in the relevant register maintained by the Chief Inspector. That is the case unless the provider has indicated to the Chief Inspector that they do not wish to be registered in the early years register or the general childcare register, or both (as the case may be), or the provider is disqualified. In those circumstances, the provider will no longer be registered for the purposes of Part 3 of the Act.

An impact assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

© Crown copyright 2014

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.

£6.00

UK201408077 08/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/1922>

ISBN 978-0-11-111974-7



9 780111 119747