

**EXPLANATORY MEMORANDUM TO**  
**THE CHILDCARE (PROVISION OF INFORMATION ABOUT YOUNG CHILDREN)**  
**(ENGLAND) (AMENDMENT) REGULATIONS 2014**

**2014 No. 3197**

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

2. **Purpose of the instrument**

Early years providers are required to supply prescribed information about young children in their care to the Secretary of State and their local authority. The information is collected through the annual Early Years Census and the School Census. This instrument brings early years childminder agencies (“CMAs”) and childminders registered with CMAs into the scope of those required to supply prescribed information about young children.

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

None

4. **Legislative Context**

4.1 The Childcare (Provision of Information About Young Children) (England) Regulations 2009 (“the 2009 Regulations”) made under section 99 of the Childcare Act 2006 (“the 2006 Act”) prescribe the individual child information that early years providers can be required to supply to the Secretary of State and their local authority.

4.2 Section 84 of, and Schedule 4 to, the Children and Families Act 2014 made amendments to the 2006 Act to make provision for CMAs. Those amendments enable anyone wishing to offer childcare on domestic premises, who would otherwise be obliged to apply to register with the Chief Inspector, to register instead with a CMA. A CMA is an agency which is itself registered on one or both of the early years and general childcare registers. Childminders and other providers of care on domestic premises now have the choice, therefore, of either registering with a CMA or with the Chief Inspector.

4.3 These Regulations amend the 2009 Regulations so that childminders registered with an early years CMA can be required to supply the information prescribed by the 2009 Regulations to the early years CMA that they are registered with. The Regulations also amend the 2009 Regulations so that CMAs can be required to provide the information prescribed by the 2009 Regulations (received from their registered childminders) to the Secretary of State and to the local authority where the early years

provision is provided. The Regulations do not make amendments to the information which is prescribed by the 2009 Regulations.

## **5. Territorial Extent and Application**

This instrument applies to England.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 In February 2013, the Government introduced provisions in the Children and Families Bill (“the Bill”) to enable the establishment of CMAs. The provisions relating to the establishment of CMAs were extensively debated during the passage of the Bill through Parliament and were commenced fully on 1 September 2014.

7.2 CMAs are one of the means by which the Government aims to make more childcare available for children, and to provide more choice and flexibility for parents. CMAs are aimed at encouraging more people to take up childminding intended to improve the quality of childminding and designed to give parents more choice and help with securing childcare that meets their needs. Childminders may choose to remain independent and register with the Chief Inspector or register with a CMA.

7.3 Local authorities have a statutory duty under section 7 of the 2006 Act to secure early years provision free of charge for all three and four year olds and for two year olds who meet the eligibility requirements set in regulations made under section 7. This is known as funded early education. Local authorities receive funding to deliver funded early education from central government through the Dedicated Schools Grant (“the DSG”).

7.4 Data on children receiving funded early education is collected through the annual Early Years Census and the School Census and published annually in a Statistical First Release (“the SFR”). The SFR also contains data on providers who deliver funded early education. The data collected is also used to calculate each local authority’s DSG to ensure that local authorities have the correct funding to ensure every eligible two year old and all three and four year olds can take up their funded early education place.

7.5 Currently all early years providers, including childminders, are required to submit early years census data direct to their local authority about two, three and four year old children in their care who are receiving a government funded early education place. The data items in the early years census are only those items that are essential and likely to be held by most providers. Providers may submit data in electronic or paper format. Local authorities are responsible for ensuring the accuracy of the data which may include having several detailed conversations with individual providers before submitting the data to the

Department for Education.

7.6 These Regulations provide that, with the introduction of CMAs, local authorities will collect data from childminders registered with the CMA via the CMA. This will change the current position provided for in the 2009 Regulations and end the direct collection of data by local authorities from CMA registered childminders. This should not cause CMAs additional work as it is expected that CMAs will hold the data required for early years census returns in the normal course of their business of supporting and working with their registered childminders. CMAs will, therefore, be able to complete early years census returns for its registered childminders and send them to the local authority as required by the 2009 Regulations. However, in cases where the CMA does not hold all or some of the required data, these amendments to the 2009 Regulations will ensure that agency-registered childminders can be required to provide the data to the CMA.

7.7 The annual collection process may be electronic (recommended) or paper based, with the local authority working with CMAs in its area. The completion of the census requires CMAs to submit data about their registered childminder and the children placed with them to the relevant local authority. CMAs will be able to quality assure this data (as a normal course of business transaction) and thereby enhance the quality of the data submitted to the local authority. This will reduce the administrative burden on agency-registered childminders and ensure that local authorities submit accurate data to the Department for Education. In turn, this will mean that the Department for Education can make accurate DSG calculations to local authorities for delivery of funded early education places and ultimately mean that parents are able to access a place for every eligible two year old and all three and four year olds.

## **8. Consultation outcome**

8.1 The Department has not consulted on these Regulations since the amendments which they make to the 2009 Regulations will result in changes which are purely technical and which arise as a direct consequence of the establishment of CMAs under the Children and Families Act 2014.

## **9. Guidance**

- 9.1 Guidance for local authorities on completing the Early Years Census is available on the Department for Education's website at <https://www.gov.uk/government/collections/early-years-census>. The guidance will be updated to reflect the changes to the 2009 Regulations. The Department will also update the advice it has issued for individuals wishing to establish a CMA, setting out their responsibilities in relation to the Early Years Census and is available on the Department for Education's website at <https://www.gov.uk/government/publications/childminder-agencies-a-step-by-step-guide>.

## **10. Impact**

10.1 A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. The Department does not expect the changes to the 2009 Regulations to place a burden on CMAs and believes that CMAs will be able to provide the required data using information they will be receiving from their childminders, including information about the children in their care, as a matter of routine.

## **11. Regulating small business**

11.1 The legislation applies to small businesses such as childminders and other providers of childcare on domestic premises where more than three childminders work together. The legislation will also apply to those small businesses that register as CMAs.

11.2 No specific action was taken to minimise the impact on small businesses that register as CMAs. The role of CMAs will be to ensure that childminders and other providers of childcare on domestic premises that register with them meet all the relevant requirements set out in the legislation. Furthermore, small businesses will be free to choose whether or not to take on this role by registering as a CMA. Therefore, it was not considered appropriate or necessary to differentiate between small businesses and larger businesses which registered as a CMA. All CMAs, large or small, will be expected to meet the same requirements.

## **12. Monitoring and review**

12.1 The number of childminders registered with CMAs and takeup of funded early education places by children at childminders registered with CMAs will be monitored through the annual Early Years Census.

## **13. Contact**

**Phil Dent** at the Department of Education. Tel: 01325 735409 or email: [phil.dent@education.gsi.gov.uk](mailto:phil.dent@education.gsi.gov.uk) can answer any queries regarding the instrument.