STATUTORY INSTRUMENTS

# 2014 No. 1921

# CHILDREN AND YOUNG PERSONS, ENGLAND

## The Childcare (Childminder Agencies) (Miscellaneous Amendments) Regulations 2014

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| *Made - - - -* | *6th August 2014* |
| *Laid before Parliament* | *11th August 2014* |
| *Coming into force - -* | *1st September 2014* |

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 12(2), 35(2)(c), 36(2)(c), 37A(3), 54(2)(c), 55(2)(c), 56A(3), 59, 65A(5), 67, 69(1), 75, 76A, 83(1) and (2), 84(1) and (3), 90(2) and 104(2) of the Childcare Act 2006(**a**).

In accordance with sections 59(2) and 67(2) of that Act, the Secretary of State has consulted Her Majesty's Chief Inspector of Education, Children's Services and Skills.

**Citation and commencement**

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

**Amendments to the Childcare Act 2006 (Provision of Information to Parents) (England) Regulations 2007**

**2.** The Childcare Act 2006 (Provision of Information to Parents) (England) Regulations 2007(**b**) are amended as follows.

**3.** In regulation 1(2), after the definition of "the Chief Inspector" insert—

> ""childminder agency" means a person who is registered under Chapter 2A (regulation of early years childminder agencies) or Chapter 3A (regulation of later years childminder agencies) of Part 3 of the 2006 Act;".

**4.**—(1) Schedule 1 is amended as follows.

(2) After paragraph 1(e) insert—

(**a**) 2006 c. 21. Sections 37A, 56A, 65A and 76A were inserted by paragraphs 9, 20, 29 and 46 respectively of Schedule 4 to the Children and Families Act 2014 (c. 6) ("the 2014 Act"). Sections 35(2)(c), 36(2)(c), 54(2)(c), 55(2)(c), 59, 67, 69(1) and 90(2) were amended by paragraphs 6, 7, 17, 18, 24, 31, 34 and 59 of Schedule 4 to the 2014 Act. Section 75 was amended by section 63(1) and (2) of, and paragraph 10 of Schedule 9 and Schedule 10 to, the Safeguarding Vulnerable Groups Act 2006 (c. 47), in relation to Wales by section 72 of, and paragraphs 21 and 23 of Schedule 1 to, the Children and Families (Wales) Measure 2010 (nawm 1) and by section 135(3) of, and paragraph 27 of Schedule 24 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Section 83 was amended by regulation 19(1) and (3) of S.I. 2013/630. See section 106 for definitions of "prescribed" and "regulations".

(**b**) S.I. 2007/3490.

"(ea) whether the registered person is registered in one of the registers maintained by the Chief Inspector or with a childminder agency;".

(3) In paragraph 1(h), in the first place where it occurs, for "the" substitute "any".

(4) For paragraph 1(n) substitute—

"(n) information about the most recent inspection of the childcare by the Chief Inspector or, as the case may be, quality assurance visit (within the meaning of regulation 2 of the Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014(**a**)) by the childminder agency, including information as to how to obtain a copy of any report made following such an inspection or visit;".

(5) For paragraph 1(o) substitute—

"(o) where the Chief Inspector or, as the case may be, a childminder agency, has—

(i) given notice of intention to cancel the registered person's registration;

(ii) cancelled the registered person's registration;

(iii) suspended the registered person's registration;

(iv) removed the registered person from the register at that person's request;

information as to which step has been taken and the date on which it was taken.".

**Amendments to the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008**

**5.** The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008(**b**) are amended as follows.

**6.** In regulation 5 (prescribed descriptions of information)—

(a) after paragraph (2)(g) insert—

"(ga) is information about A held by a childminder agency in connection with the exercise of its functions under Part 3 of the Act;"; and

(b) in the definition of "relevant qualification" in paragraph (3)—

(i) for "Chapter 2, 3 or 4" substitute "any of Chapters 2 to 4"; and

(ii) after "section 68(2)(a)" insert "or 69B(2)(a)".

**7.** In regulation 6 (content of certificate of registration), in the heading, at the end add "issued by the Chief Inspector".

**8.** After regulation 7 (content of combined certificate of registration) insert—

"**Content of certificate of registration issued by a childminder agency**

**7A.** A certificate of registration given in accordance with section 37A, 56A or 65A of the Act must contain the following information—

(a) the name of the registered person;

(b) the date of registration;

(c) whether the registered person is registered as an early years provider under Chapter 2, a later years provider under Chapter 3, or as a provider of childcare who is registered on a voluntary basis under Chapter 4 of Part 3 of the Act;

(d) whether the registered person is registered as a childminder or as a provider of childcare other than childminding;

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(**a**) S.I. 2014/1920.
(**b**) S.I. 2008/976, as amended by S.I. 2008/2683, S.I. 2010/2582 and S.I. 2011/2581.

(e) where the registered person is registered as a provider of childcare other than childminding, the address of the premises in respect of which that provider is registered;

(f) the name, address and telephone number of the childminder agency with which the registered person is registered;

(g) any unique reference number or other identifier issued by the Chief Inspector to the childminder agency with which the registered person is registered.".

**9.** In regulation 8 (suspension of registration), for "registered person" substitute "person who is registered under Chapter 2, 3 or 4 in the early years register or the general childcare register".

**Amendments to the Childcare (Fees) Regulations 2008**

**10.** The Childcare (Fees) Regulations 2008(**a**) are amended as follows.

**11.** In regulation 3 (application fee for the early years register: early years childminders), for "35(1)" substitute "35(1)(a)".

**12.** In regulation 4 (application fee for the early years register: other early years providers), after "36(1)" insert "or (1A)(a)".

**13.** In regulation 5 (application fee for Part A of the general childcare register: later years childminders), for "54(1)" substitute "54(1)(a)".

**14.** In regulation 6 (application fee for Part A of the general childcare register: other later years providers), after "55(1)" insert "or (1A)(a)".

**Amendments to the Childcare (Disqualification) Regulations 2009**

**15.** The Childcare (Disqualification) Regulations 2009(**b**) are amended as follows.

**16.** In regulation 4 (care of children and offences against children or adults)—

(a) in paragraph (1), after "registration" insert "under any of Chapters 2 to 4 of Part 3 of the Act"; and

(b) for paragraph (10) substitute—

"(10) P shall not be disqualified from registration under paragraph (2) in respect of any refusal or cancellation of registration under the provisions set out in paragraph 19(c) of Schedule 1 if—

(a) the refusal or cancellation is in respect of registration with a childminder agency; or

(b) the sole reason for the refusal or cancellation of registration was the failure to pay any fee prescribed under Part 3 of the Act.".

**17.** In regulation 5(1), after "registration" insert "under any of Chapters 2 to 4 of Part 3 of the Act".

**18.** In regulation 6 (protection of Children Act list), after "registration" add "under Chapters 2, 3 and 4 of Part 3 of the Act".

**19.** In regulation 7(1), after "registration" insert under Chapters 2, 3 and 4 of Part 3 of the Act."

**20.** In regulation 8 (persons barred from regulated activity relating to children), after "registration" add "under Chapters 2, 3 and 4 of Part 3 of the Act."

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(**a**) S.I. 2008/1804, as amended by S.I. 2010/307; there is another amending instrument which is not relevant.
(**b**) S.I. 2009/1547, as amended by S.I. 2010/2582, S.I. 2011/1740, S.I. 2011/2581 and S.I. 2013/1465.

**21.** In regulation 9 (persons living or working on premises where a disqualified person lives), in each place where it occurs after "registration" insert "under Chapters 2, 3 and 4 of Part 3 of the Act".

**22.** In regulation 10(1) (waivers), after sub-paragraph (d) add—

"(e) registration as an early years childminder agency or a later years childminder under Part 3 of the Act;

(f) appointment as a director or other officer of, or partner in, an early years childminder agency or a later years childminder agency, or membership of the governing body of such an agency;

(g) direct concern in the management of an early years childminder agency or a later years childminder agency;

(h) work for an early or later years childminder agency in any capacity which involves entering premises on which early years provision or later years provision is being provided.".

**23.** In regulation 12 (duty of disclosure)—

(a) in paragraph (1), after "Chief Inspector" insert "or, in the case of a person who is registered with a childminder agency, to that agency";

(b) in paragraph (3), after "Chief Inspector" insert "or to the childminder agency, as the case may be,"; and

(c) for paragraph (4) substitute—

"(4) Any allegation that a registered person has failed to meet the requirements prescribed in this regulation may be taken into account by the Chief Inspector or, in the case of a person who is registered with a childminder agency, that agency, in the exercise of functions under Part 3 of the Act.".

**Amendments to the Childcare (Supply and Disclosure of Information) (England) Regulations 2007**

**24.** The Childcare (Supply and Disclosure of Information) (England) Regulations 2007(**a**) are amended as follows.

**25.** For regulation 2 (interpretation) substitute—

"**2.** In these Regulations—

"the Act" means the Childcare Act 2006;

"enforcement action" means the serving of any notice, and the imposition of any requirement or condition, upon a registered provider or registered agency by the Chief Inspector, any suspension of registration and, in relation to a registered provider, any application pursuant to section 72 of the Act to a justice of the peace;

"nominated individual" has the meaning given in regulation 2(1) of the Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014;

"registered agency" means a person registered under Chapter 2A (regulation of early years childminder agencies) or Chapter 3A (regulation of later years childminder agencies) of Part 3 of the Act;

"registered provider" means a person 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 Part 3 of the Act;

"registration" means—

(**a**) S.I. 2007/722, as amended by S.I. 2008/961, S.I. 2011/2581, S.I. 2011/3058 and S.I. 2013/630.

(i) in relation to a childminder agency, registration under Chapter 2A or 3A of Part 3 of the Act; and

(ii) in relation to a person who provides childcare, registration under Chapter 2, 3 or 4 of Part 3 of the Act;

"relevant premises" means, in relation to a registered provider, the premises on which the provision of childcare by that person takes place or, as the case may be, is intended to take place, or took place at the relevant time;

"setting" means, in relation to a registered provider, the premises on which the provision of childcare takes place or, as the case may be, is intended to take place, or took place at a material time, together with any equipment and personnel associated with the provision of that childcare.".

**26.** In regulation 4 (supply of information to the Secretary of State and Her Majesty's Revenue and Customs)—

(a) in each place where it occurs, for "person's registration" substitute "the registration of a person who provides childcare";

(b) after paragraph (1) insert—

"(1A) For the purposes of section 83(1) of the Act, the information specified in paragraphs 1 to 8 of Schedule 4 is prescribed as information which must be provided to the Secretary of State and Her Majesty's Revenue and Customs when the Chief Inspector takes one of the steps mentioned in sub-paragraphs (a), (c), (d) or (e) of section 83(1) in relation to a childminder agency's registration."; and

(c) in paragraph (2), for "registered person" substitute "registered provider".

**27.** In regulation 5 (supply of information to local authorities)—

(a) in each place where it occurs, for "person's registration" substitute "the registration of a person who provides childcare";

(b) after paragraph (1) insert—

"(1A) For the purposes of section 83(1) of the Act, the information specified in paragraphs 1 to 10 of Schedule 4 is prescribed as information which must be provided to the relevant local authority when the Chief Inspector takes one of the steps mentioned in sub-paragraphs (a) to (e) of section 83(1) in relation to a childminder agency's registration." ; and

(c) in paragraph (2), for "registered person" substitute "registered provider".

**28.** In regulation 6 (disclosure of information to assist parents or prospective parents)—

(a) for "registered person" substitute "registered provider";

(b) the existing paragraph is re-numbered as paragraph (1); and

(c) after that paragraph, insert—

"(2) For the purposes of section 84(1) of the Act, the information specified in paragraphs 1 to 9 and 11 to 13 of Schedule 4 is prescribed as information about a registered agency which the Chief Inspector may arrange to be made available for the purpose of assisting parents or prospective parents in choosing an early or later years provider.".

**29.** In regulation 7 (disclosure of information to protect children from harm or neglect)—

(a) for "registered person" substitute "registered provider";

(b) the existing paragraph is re-numbered as paragraph (1); and

(c) after that paragraph, insert—

"(2) For the purposes of section 84(1) of the Act, the information specified in paragraphs 1 to 6, 9, 10, 14 and 15 of Schedule 4 is prescribed as information about a registered agency which the Chief Inspector may arrange to be made available for the purpose of protecting children from harm or neglect.".

**30.** In regulation 8 (required provision of information to child protection agencies and police forces)—

(a) in each place where it occurs, for "registered person" substitute "registered provider"; and

(b) after paragraph (1), insert—

"(1A) Where a written request concerning a registered agency has been received from a person prescribed in paragraph (2), the Chief Inspector must, pursuant to section 84(3) of the Act, for the purpose of protecting children from harm or neglect, provide to that person such of the information mentioned in paragraphs 5, 9, 10, 14 and 15 of Schedule 4 as has been requested and is held by the Chief Inspector in relation to that registered agency.".

**31.** In regulation 9 (required provision of information to various prescribed persons)—

(a) in each place where it occurs, for "registered person" substitute "registered provider";

(b) after paragraph (1), insert—

"(1A) Where a written request concerning a registered agency has been received from a person prescribed in paragraph (2A), the Chief Inspector must, pursuant to section 84(3) of the Act, for the purpose of protecting children from harm or neglect, provide to that person such of the information prescribed in paragraph (3A) as has been requested and is held by the Chief Inspector in relation to that registered agency.";

(c) in paragraph (2), after sub-paragraph (g) insert—

"(h) a childminder agency;";

(d) after paragraph (2) insert—

"(2A) The prescribed persons referred to in paragraph (1A) are the persons specified in sub-paragraphs (a) to (g) of paragraph (2).";

(e) after paragraph (3) add—

"(3A) Subject to paragraph (4), the prescribed information referred to in paragraph (1A) is the information specified in paragraphs 1 to 9, 10, 14 and 15 of Schedule 4."; and

(f) in paragraph (4), after "(3)" insert "or (3A)".

**32.** After Schedule 3 insert—

## "SCHEDULE 4

Regulations 4 to 9

**1.** The name of the childminder agency.

**2.** The name of the nominated individual.

**3.** Any unique reference number or other identifier used by the Chief Inspector in relation to the childminder agency.

**4.** The address of the childminder agency or, where the childminder agency is to operate from more than one site, the address of each site.

**5.** The date of registration.

**6.** Whether the childminder agency is registered under Chapter 2A or Chapter 3A of Part 3 of the Act, or both, as the case may be.

**7.** Where the Chief Inspector takes one of the steps mentioned in sub-paragraphs (a) to (e) of section 83(1) of the Act in respect of the childminder agency's registration, information as to which of the steps the Chief Inspector is taking, namely—

(a) granting the person's application for registration;

(b) giving notice of intention to cancel the person's registration;

(c) cancelling the person's registration;

(d) suspending the person's registration; or

(e) removing the person from the register at that person's request and,

in relation to a step mentioned in any of sub-paragraphs (b) to (e), the date on which the step was taken.

**8.** Any telephone number, fax number or e-mail address of the childminder agency supplied to the Chief Inspector.

**9.** The conditions, if any, attaching to the childminder agency's registration and the date on which they were imposed.

**10.** Information connected with any enforcement action taken against the registered agency by the Chief Inspector.

**11.** Information obtained or received by a person authorised by the Chief Inspector as to whether the prescribed requirements for registration which applied to the registered agency continue to be satisfied, and whether the registered agency is complying with any other requirements imposed on him by regulations under Part 3 of the Act and any conditions of registration.

**12.** Information about any complaints that have been made to the Chief Inspector about the registered agency.

**13.** Information about the most recent inspection by the Chief Inspector of the childminder agency, including information as to how to obtain a copy of any report made by the Chief Inspector in relation to that inspection.

**14.** Information obtained or received by the Chief Inspector in the course of ascertaining the suitability of a person for registration as a childminder agency.

**15.** Information obtained or received by a person authorised by the Chief Inspector for the purposes of section 78A of the Act (powers of entry) while exercising any power conferred by that section.".

*John Nash*
Parliamentary Under Secretary of State
Department for Education

6th August 2014

## EXPLANATORY NOTE

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

These Regulations make miscellaneous amendments to a number of regulations made under the Childcare Act 2006 ("the 2006 Act"). The amendments are consequential on changes to Part 3 of the 2006 Act allowing for the registration of persons who propose to provide childcare on domestic premises with childminder agencies as an alternative to registration in one of the registers maintained by Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector"). Those changes were made by section 84 of, and Schedule 4 to, the Children and Families Act 2014.

Regulations 2 to 4 amend the Childcare Act 2006 (Provision of Information to Parents) (England) Regulations 2007. Regulation 4 amends the list of information which must be provided by English local authorities to parents and prospective parents as a result of the duty imposed by section 12 of the 2006 Act. Local authorities are required to provide the same information in respect of childcare providers who are registered with a childminder agency as they would be required to

provide in respect of childcare providers who are registered in one of the registers maintained by the Chief Inspector.

Regulations 5 to 9 amend the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008. Regulation 6 is relevant to the circumstances in which a person ('A') makes an application to the Chief Inspector for registration as a childcare provider or as a childminder agency, and to circumstances in which the Chief Inspector is contemplating cancelling the registration of one of its registered providers or agencies. If the Chief Inspector requests A to consent to the disclosure, by a childminder agency, of information held by that agency which relates to A and A refuses his consent, then the Chief Inspector can treat the prescribed requirements for registration as not being satisfied or as no longer being satisfied, as the case may be. Regulation 8 deals with the content of certificates of registration issued to a childcare provider by a childminder agency. Regulation 9 makes an amendment to make clear that the power of the Chief Inspector to suspend a provider's registration only applies to childcare providers who are registered in one of the registers maintained by the Chief Inspector, and not to providers who are registered with a childminder agency.

Regulations 10 to 14 amend the Childcare (Fees) Regulations 2008 so as to apply only to providers who have made an application to, or who are registered with, the Chief Inspector.

Regulations 15 to 23 amend the Childcare (Disqualification) Regulations 2009. By virtue of regulations 16 and 17, the orders, determinations and offences which give rise to disqualification from registration as a childcare provider (including comparable offences committed overseas) will also give rise to disqualification from registration as a childminder agency. By virtue of regulation 22, the power of the Chief Inspector to waive disqualification in certain circumstances is also extended to apply to disqualification from registration as a childminder agency. In addition, the amendment introduced by regulation 16 means that a provider who is refused registration by a childminder agency or who has his or her registration cancelled by a childminder agency will not automatically be precluded from seeking registration elsewhere (be that with another agency or with the Chief Inspector). The amendment made by regulation 23 means that a person who is registered as a later years provider or on a voluntary basis with a childminder agency must disclose details of any order, determination, conviction or other ground for disqualification from registration which arises during his or her registration to the agency with which he or she is registered.

Regulations 24 to 32 amend the Childcare (Supply and Disclosure of Information) (England) Regulations 2007 to make provision for the disclosure, by the Chief Inspector, of prescribed information about childminder agencies. Regulation 31 also amends regulation 9(2) of those Regulations to add childminder agencies to the list of prescribed persons to whom the Chief Inspector must, upon request, provide information about a registered provider for the purpose of protecting children from harm or neglect.

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

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