



# Children Act 1989

## 1989 CHAPTER 41

### [<sup>F1</sup>PART XA

#### CHILD MINDING AND DAY CARE FOR CHILDREN IN ENGLAND AND WALES]

##### Textual Amendments

- F1** Pt. XA (ss. 79A-79X) inserted by 2000 c. 14, ss. 79(1), 122 (the insertion coming into force at 16.3.2001 for specified purposes for E., at 1.7.2001 for specified purposes for W., at 2.7.2001 for specified purposes for E., at 1.4.2002 for specified purposes for E., at 1.4.2002 otherwise for W., at 2.9.2002 for specified purposes for E., and otherwise prosp.) by: S.I. 2001/1210, art. 2; S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/839, art. 2; S.I. 2002/2215, art. 2; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3))

##### Modifications etc. (not altering text)

- C1** Pt. XA applied (1.9.2003) (E.) by The Day Care (Application to Schools) (England) Regulations 2003 (S.I. 2003/1992), reg. 3 (subject to reg. 4)

#### *Introductory*

#### <sup>F2</sup>79A Child minders and day care providers.

- (1) This section and section 79B apply for the purposes of this Part.
- (2) “Act as a child minder” means (subject to the following subsections) look after one or more children under the age of eight on domestic premises for reward; and “child minding” shall be interpreted accordingly.
- (3) A person who—
  - (a) is the parent, or a relative, of a child;
  - (b) has parental responsibility for a child;
  - (c) is a local authority foster parent in relation to a child;

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- (d) is a foster parent with whom a child has been placed by a voluntary organisation; or
  - (e) fosters a child privately,
- does not act as a child minder when looking after that child.
- (4) Where a person—
- (a) looks after a child for the parents (“P1”), or
  - (b) in addition to that work, looks after another child for different parents (“P2”),
- and the work consists (in a case within paragraph (a)) of looking after the child wholly or mainly in P1’s home or (in a case within paragraph (b)) of looking after the children wholly or mainly in P1’s home or P2’s home or both, the work is not to be treated as child minding.
- (5) In subsection (4), “parent”, in relation to a child, includes—
- (a) a person who is not a parent of the child but who has parental responsibility for the child;
  - (b) a person who is a relative of the child.
- (6) “Day care” means care provided at any time for children under the age of eight on premises other than domestic premises.
- (7) This Part does not apply in relation to a person who acts as a child minder, or provides day care on any premises, unless the period, or the total of the periods, in any day which he spends looking after children or (as the case may be) during which the children are looked after on the premises exceeds two hours.
- (8) In determining whether a person is required to register under this Part for child minding, any day on which he does not act as a child minder at any time between 2 am and 6 pm is to be disregarded.

#### Textual Amendments

**F2** S. 79A inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in Sch); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### **F3-79B Other definitions, etc.**

- (1) The registration authority in relation to England is Her Majesty’s Chief Inspector of Schools in England (referred to in this Part as the Chief Inspector) and references to the Chief Inspector’s area are references to England.
- (2) The registration authority in relation to Wales is the National Assembly for Wales (referred to in this Act as “the Assembly”).
- (3) A person is qualified for registration for child minding if—
  - (a) he, and every other person looking after children on any premises on which he is or is likely to be child minding, is suitable to look after children under the age of eight;
  - (b) every person living or employed on the premises in question is suitable to be in regular contact with children under the age of eight;

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- (c) the premises in question are suitable to be used for looking after children under the age of eight, having regard to their condition and the condition and appropriateness of any equipment on the premises and to any other factor connected with the situation, construction or size of the premises; and
  - (d) he is complying with regulations under section 79C and with any conditions imposed [<sup>F4</sup>under this Part] .
- (4) A person is qualified for registration for providing day care on particular premises if—
- (a) every person looking after children on the premises is suitable to look after children under the age of eight;
  - (b) every person living or working on the premises is suitable to be in regular contact with children under the age of eight;
  - (c) the premises are suitable to be used for looking after children under the age of eight, having regard to their condition and the condition and appropriateness of any equipment on the premises and to any other factor connected with the situation, construction or size of the premises; and
  - (d) he is complying with regulations under section 79C and with any conditions imposed [<sup>F4</sup>under this Part] .
- (5) For the purposes of subsection (4)(b) a person is not treated as working on the premises in question if—
- (a) none of his work is done in the part of the premises in which children are looked after; or
  - (b) he does not work on the premises at times when children are looked after there.
- [<sup>F5</sup>(5A) Where, for the purposes of determining a person’s qualification for registration under this Part—
- (a) the registration authority requests any person (“A”) to consent to the disclosure to the authority by another person (“B”) of any information relating to A which is held by B and is of a prescribed description, and
  - (b) A does not give his consent (or withdraws it after having given it),
- the registration authority may, if regulations so provide and it thinks it appropriate to do so, regard A as not suitable to look after children under the age of eight, or not suitable to be in regular contact with such children.]
- (6) “Domestic premises” means any premises which are wholly or mainly used as a private dwelling and “premises” includes any area and any vehicle.
- (7) “Regulations” means—
- (a) in relation to England, regulations made by the Secretary of State;
  - (b) in relation to Wales, regulations made by the Assembly.
- (8) “Tribunal” means the Tribunal established by section 9 of the <sup>M1</sup>Protection of Children Act 1999.
- (9) Schedule 9A (which supplements the provisions of this Part) shall have effect.

#### Textual Amendments

- F3** S. 79B inserted ((W.) 1.7.2001 for certain purposes and 1.4.2002 otherwise and (E.) 2.7.2001 for certain purposes and 1.4.2002 otherwise) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(3) (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/839, art. 2: S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

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- F4** Words in s. 79B(3)(d)(4)(d) substituted (1.3.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), s. 48, [Sch. 4 para. 2\(1\)](#); [S.I. 2005/394](#), [art. 2\(1\)\(k\)](#)
- F5** [S. 79B\(5A\)](#) inserted (1.10.2002 for E. and 19.12.2002 for W.) by [2002 c. 32](#), s. 152, [Sch. 13 para. 1](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. 1](#)

#### Marginal Citations

- M1** [1999 c. 14](#).

### *Regulations*

#### **<sup>F6</sup>79C Regulations etc. governing child minders and day care providers.**

- (1) The Secretary of State may, after consulting the Chief Inspector and any other person he considers appropriate, make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in England.
- (2) The Assembly may make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in Wales.
- (3) The regulations under this section may deal with the following matters (among others)
  - (a) the welfare and development of the children concerned;
  - (b) suitability to look after, or be in regular contact with, children under the age of eight;
  - (c) qualifications and training;
  - (d) the maximum number of children who may be looked after and the number of persons required to assist in looking after them;
  - (e) the maintenance, safety and suitability of premises and equipment;
  - (f) the keeping of records;
  - (g) the provision of information.
- (4) In relation to activities on premises in England, the power to make regulations under this section may be exercised so as to confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.
- (5) In particular they may be exercised so as to require or authorise the Chief Inspector, in exercising those functions, to have regard to or meet factors, standards and other matters prescribed by or referred to in the regulations.
- (6) If the regulations require any person (other than the registration authority) to have regard to or meet factors, standards and other matters prescribed by or referred to in the regulations, they may also provide for any allegation that the person has failed to do so to be taken into account—
  - (a) by the registration authority in the exercise of its functions under this Part, or
  - (b) in any proceedings under this Part.
- (7) Regulations may provide—
  - (a) that a registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any requirement of the regulations shall be guilty of an offence; and
  - (b) that a person guilty of the offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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#### Textual Amendments

- F6** S. 79C inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(i); S.I. 2001/2041, art. 2(1)(a)(2)(3)(with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

### Registration

#### **F779D Requirement to register.**

- (1) No person shall—
  - (a) act as a child minder in England unless he is registered under this Part for child minding by the Chief Inspector; or
  - (b) act as a child minder in Wales unless he is registered under this Part for child minding by the Assembly.
- (2) Where it appears to the registration authority that a person has contravened subsection (1), the authority may serve a notice (“an enforcement notice”) on him.
- (3) An enforcement notice shall have effect for a period of one year beginning with the date on which it is served.
- (4) If a person in respect of whom an enforcement notice has effect contravenes subsection (1) without reasonable excuse (whether the contravention occurs in England or Wales), he shall be guilty of an offence.
- (5) No person shall provide day care on any premises unless he is registered under this Part for providing day care on those premises by the registration authority.
- (6) If any person contravenes subsection (5) without reasonable excuse, he shall be guilty of an offence.
- (7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

- F7** S. 79D inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in Sch); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs.1-3)

#### **F879E Applications for registration.**

- (1) A person who wishes to be registered under this Part shall make an application to the registration authority.
- (2) The application shall—
  - (a) give prescribed information about prescribed matters;
  - (b) give any other information which the registration authority reasonably requires the applicant to give.

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- (3) Where a person provides, or proposes to provide, day care on different premises, he shall make a separate application in respect of each of them.
- (4) Where the registration authority has sent the applicant notice under section 79L(1) of its intention to refuse an application under this section, the application may not be withdrawn without the consent of the authority.
- (5) A person who, in an application under this section, knowingly makes a statement which is false or misleading in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

- F8** S. 79E inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(ii); S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### <sup>F9</sup>79F Grant or refusal of registration.

- (1) If, on an application by a person for registration for child minding—
  - (a) the registration authority is of the opinion that the applicant is, and will continue to be, qualified for registration for child minding (so far as the conditions of section 79B(3) are applicable); and
  - (b) the applicant pays the prescribed fee,
 the authority shall grant the application; otherwise, it shall refuse it.
- (2) If, on an application by any person for registration for providing day care on any premises—
  - (a) the registration authority is of the opinion that the applicant is, and will continue to be, qualified for registration for providing day care on those premises (so far as the conditions of section 79B(4) are applicable); and
  - (b) the applicant pays the prescribed fee,
 the authority shall grant the application; otherwise, it shall refuse it.
- (3) An application may, as well as being granted subject to any conditions the authority thinks necessary or expedient for the purpose of giving effect to regulations under section 79C, be granted subject to any other conditions the authority thinks fit to impose.
- (4) The registration authority may as it thinks fit vary or remove any condition to which the registration is subject or impose a new condition.
- (5) Any register kept by a registration authority of persons who act as child minders or provide day care shall be open to inspection by any person at all reasonable times.
- (6) A registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any condition imposed on his registration shall be guilty of an offence.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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### Textual Amendments

- F9** S. 79F inserted (16.3.2001 (E.) for certain purposes and 1.7.2001 (W.) for certain purposes and otherwise (W.) 1.4.2002, and 2.7.2001 (E.) in so far as not already in force) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(iii)(iv); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

### <sup>F10</sup>79G Cancellation of registration.

- (1) The registration authority may cancel the registration of any person if—
  - (a) in the case of a person registered for child minding, the authority is of the opinion that the person has ceased or will cease to be qualified for registration for child minding;
  - (b) in the case of a person registered for providing day care on any premises, the authority is of the opinion that the person has ceased or will cease to be qualified for registration for providing day care on those premises,or if an annual fee which is due from the person has not been paid.
- (2) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a registered person [<sup>F11</sup>under section 79F(3)], his registration shall not be cancelled on the ground of any defect or insufficiency in the services, equipment or premises if—
  - (a) the time set for complying with the requirements has not expired; and
  - (b) it is shown that the defect or insufficiency is due to the changes or additions not having been made.
- (3) Any cancellation under this section must be in writing.

### Textual Amendments

- F10** S. 79G inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F11** Words in s. 79G(2) repealed (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 2(2), Sch. 5 Pt. 2; S.I. 2005/394, art. 2(1)(k)(m); S.I. 2006/885, art. 2(2)(c)

### <sup>F12</sup>79H Suspension of registration.

- (1) Regulations may provide for the registration of any person for acting as a child minder or providing day care to be suspended for a prescribed period by the registration authority in prescribed circumstances.
- (2) Any regulations made under this section shall include provision conferring on the person concerned a right of appeal to the Tribunal against suspension.
- [<sup>F13</sup>(3) A person registered under this Part for child minding by the Chief Inspector shall not act as a child minder in England at a time when that registration is suspended in accordance with regulations under this section.

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- (4) A person registered under this Part for child minding by the Assembly shall not act as a child minder in Wales at a time when that registration is so suspended.
- (5) A person registered under this Part for providing day care on any premises shall not provide day care on those premises at any time when that registration is so suspended.
- (6) If any person contravenes subsection (3), (4) or (5) without reasonable excuse, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

#### Textual Amendments

- F12** S. 79H inserted ((E.) 16.3.2001 for certain purposes and otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes and otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(v); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F13** S. 79H(3)-(6) inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 2 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. 1

#### <sup>F14</sup>79J Resignation of registration.

- (1) A person who is registered for acting as a child minder or providing day care may by notice in writing to the registration authority resign his registration.
- (2) But a person may not give a notice under subsection (1)—
  - (a) if the registration authority has sent him a notice under section 79L(1) of its intention to cancel the registration, unless the authority has decided not to take that step; or
  - (b) if the registration authority has sent him a notice under section 79L(5) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.

#### Textual Amendments

- F14** S. 79J inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### <sup>F15</sup>79K Protection of children in an emergency.

- (1) If, in the case of any person registered for acting as a child minder or providing day care—
  - (a) the registration authority applies to a justice of the peace for an order—
    - (i) cancelling the registration;
    - (ii) varying or removing any condition to which the registration is subject; or
    - (iii) imposing a new condition; and



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- (b) it appears to the justice that a child who is being, or may be, looked after by that person, or (as the case may be) in accordance with the provision for day care made by that person, is suffering, or is likely to suffer, significant harm, the justice may make the order.
- (2) The cancellation, variation, removal or imposition shall have effect from the time when the order is made.
- (3) An application under subsection (1) may be made without notice.
- (4) An order under subsection (1) shall be made in writing.
- (5) Where an order is made under this section, the registration authority shall serve on the registered person, as soon as is reasonably practicable after the making of the order—
  - (a) a copy of the order;
  - (b) a copy of any written statement of the authority's reasons for making the application for the order which supported that application; and
  - (c) notice of any right of appeal conferred by section 79M.
- (6) Where an order has been so made, the registration authority shall, as soon as is reasonably practicable after the making of the order, notify the local authority in whose area the person concerned acts or acted as a child minder, or provides or provided day care, of the making of the order.

#### Textual Amendments

**F15** S. 79K inserted (2.7.2001 for certain purposes for E. and otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(3) (with transitional provisions and savings in Sch.); S.I. 2002/839, art. 2(b); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### <sup>F16</sup>79L Notice of intention to take steps.

- (1) Not less than 14 days before—
  - (a) refusing an application for registration;
  - (b) cancelling a registration;
  - (c) removing or varying any condition to which a registration is subject or imposing a new condition; or
  - (d) refusing to grant an application for the removal or variation of any condition to which a registration is subject,the registration authority shall send to the applicant, or (as the case may be) registered person, notice in writing of its intention to take the step in question.
- (2) Every such notice shall—
  - (a) give the authority's reasons for proposing to take the step; and
  - (b) inform the person concerned of his rights under this section.
- (3) Where the recipient of such a notice informs the authority in writing of his desire to object to the step being taken, the authority shall afford him an opportunity to do so.
- (4) Any objection made under subsection (3) may be made orally or in writing, by the recipient of the notice or a representative.

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- (5) If the authority, after giving the person concerned an opportunity to object to the step being taken, decides nevertheless to take it, it shall send him written notice of its decision.
- (6) A step of a kind mentioned in subsection (1)(b) or (c) shall not take effect until the expiry of the time within which an appeal may be brought under section 79M or, where such an appeal is brought, before its determination.
- (7) Subsection (6) does not prevent a step from taking effect before the expiry of the time within which an appeal may be brought under section 79M if the person concerned notifies the registration authority in writing that he does not intend to appeal.

#### Textual Amendments

- F16** S. 79L inserted (2.7.2001 for certain purposes for E. and otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a)(3)(c) (with transitional provisions and savings in Sch.); S.I. 2002/839, art. 2(c); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### Modifications etc. (not altering text)

- C2** S. 79L applied (with modifications) (25.3.2003) (E.) by The Tax Credits (Approval of Home Child Care Providers) Scheme 2003 (S.I. 2003/463), {arts. 11, 12}

### <sup>F17</sup>79M Appeals.

- (1) An appeal against—
  - (a) the taking of any step mentioned in section 79L(1); <sup>F18</sup> . . .
  - (b) an order under section 79K, [<sup>F19</sup>or
  - (c) a determination made by the registration authority under this Part (other than one falling within paragraph (a) or (b)) which is of a prescribed description,]
 shall lie to the Tribunal.
- (2) On an appeal, the Tribunal may—
  - (a) confirm the taking of the step or the making of the order [<sup>F20</sup>or determination] or direct that it shall not have, or shall cease to have, effect; and
  - (b) impose, vary or cancel any condition.

#### Textual Amendments

- F17** S. 79M inserted (1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2002/839, art. 2(d); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F18** Word in s. 79M(1) repealed (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, ss. 215(2), 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Pt. 1
- F19** S. 79M(1)(c) and preceding word inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 3(2) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F20** Words in s.79M(2)(a) inserted (1.10.2002 for E. 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 3(3) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. 1

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### *Inspection: England*

#### **F2179N General functions of the Chief Inspector.**

- (1) The Chief Inspector has the general duty of keeping the Secretary of State informed about the quality and standards of child minding and day care provided by registered persons in England.
- (2) When asked to do so by the Secretary of State, the Chief Inspector shall give advice or information to the Secretary of State about such matters relating to the provision of child minding or day care by registered persons in England as may be specified in the Secretary of State's request.
- (3) The Chief Inspector may at any time give advice to the Secretary of State, either generally or in relation to provision by particular persons or on particular premises, on any matter connected with the provision of child minding or day care by registered persons in England.
- (4) The Chief Inspector may secure the provision of training for persons who provide or assist in providing child minding or day care, or intend to do so.
- (5) Regulations may confer further functions on the Chief Inspector relating to child minding and day care provided in England.
- (6) The annual reports of the Chief Inspector required by subsection (7)(a) of section 2 of the <sup>M2</sup>School Inspections Act 1996 to be made to the Secretary of State shall include an account of the exercise of the Chief Inspector's functions under this Part, and the power conferred by subsection (7)(b) of that section to make other reports to the Secretary of State includes a power to make reports with respect to matters which fall within the scope of his functions by virtue of this Part.

#### **Textual Amendments**

**F21** S. 79N inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(vi); S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### **Marginal Citations**

**M2** 1996 c. 57.

#### **F2279P Early years child care inspectorate.**

- (1) The Chief Inspector shall establish and maintain a register of early years child care inspectors for England.
- (2) The register may be combined with the register maintained for England under paragraph 8(1) of Schedule 26 to the <sup>M3</sup>School Standards and Framework Act 1998 (register of nursery education inspectors).
- (3) Paragraphs 8(2) [<sup>F23</sup>to (8)], 9(1) to (4), 10 and 11 of that Schedule shall apply in relation to the register of early years child care inspectors as they apply in relation to the register maintained for England under paragraph 8(1) of that Schedule, but with the modifications set out in subsection (4).

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- (4) In the provisions concerned—
- (a) references to registered nursery education inspectors shall be read as references to registered early years child care inspectors;
  - (b) references to inspections under paragraph 6 of that Schedule shall be read as references to inspections under section 79Q (and references to the functions of a registered nursery education inspector under paragraph 6 shall be interpreted accordingly);
  - (c) references to the registration of a person under paragraph 6 of that Schedule shall be read as references to the registration of a person under subsection (1) (and references to applications made under paragraph 6 shall be interpreted accordingly); <sup>F24</sup>and
  - (d) in paragraph 10(2), for the words from “to a tribunal” to the end there shall be substituted “to the Tribunal established under section 9 of the <sup>M4</sup>Protection of Children Act 1999.”]
- (5) Registered early years child care inspectors are referred to below in this Part as registered inspectors.

#### Textual Amendments

- F22** S. 79P inserted ((E.) 2.7.2001 and 2.9.2002 for certain purposes otherwise *prosp.* and (W.) 1.4.2002) by 2000 c. 14, **ss. 79(1), 122**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in **Sch.** (as amended by S.I. 2002/2215, **art. 3**)); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in **Schs. 1-3**); S.I. 2002/2215, **art. 2**
- F23** Words in s. 79P(3) substituted (2.9.2002 (E.)) by 2002 c. 32, **ss. 155, 216, Sch. 14 para. 4** (with **ss. 210(8), 214(4)**); S.I. 2002/2002, **art. 4**
- F24** S. 79P(4)(d) and preceding word repealed (1.9.2004 for W. and otherwise *prosp.*) by 2002 c. 32, **ss. 215(2), 216(4), Sch. 22 Pt. 3** (with **ss. 210(8), 214(4)**); S.I. 2004/1728, **art. 5, Sch. Pt. 2**

#### Marginal Citations

- M3** 1998 c. 31.  
**M4** 1999 c. 14.

### <sup>F25</sup>79Q Inspection of provision of child minding and day care in England.

- (1) The Chief Inspector may at any time require any registered person to provide him with any information connected with the person’s activities as a child minder, or provision of day care, which the Chief Inspector considers it necessary to have for the purposes of his functions under this Part.
- (2) The Chief Inspector shall <sup>F26</sup>at prescribed intervals inspect, or secure the inspection by a registered inspector of, any child minding provided in England by a registered person].
- (3) The Chief Inspector shall <sup>F27</sup>at prescribed intervals inspect, or secure the inspection by a registered inspector of, any day care provided by a registered person on any premises in England].
- (4) The Chief Inspector may comply with subsection (2) or (3) either by organising inspections or by making arrangements with others for them to organise inspections.

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- (5) In prescribing the intervals mentioned in subsection (2) or (3) the Secretary of State may make provision as to the period within which the first inspection of child minding or day care provided by any person or at any premises is to take place.
- [<sup>F28</sup>(5A) Regulations may make provision requiring a registered person, except in prescribed cases, to notify prescribed persons of the fact that any child minding or day care provided by the registered person is to be inspected under this section.]
- (6) A person conducting an inspection under this section shall report on the quality and standards of the child minding or day care provided.
- (7) The Chief Inspector may arrange for an inspection conducted by a registered inspector under this section to be monitored by another registered inspector.

#### Textual Amendments

- F25** S. 79Q inserted ((E.) 16.3.2001 and 2.7.2001 for certain purposes otherwise 2.9.2002 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, ss. 79(1), 122; S.I. 2001/1210, art. 2(a)(vii)(viii) S.I. 2001/2041, art. 2(1)(a)(2) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F26** Words in s. 79Q(2) substituted (2.9.2002 (E.) and otherwise prosp.) by 2002 c. 32, ss. 152, 216, Sch. 13 para. 4(2) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F27** Words in s. 79Q(3) substituted (2.9.2002 (E.) and otherwise prosp.) by 2002 c. 32, ss. 152, 216, Sch. 13 para. 4(3) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F28** S. 79Q(5A) inserted (1.8.2005) by Education Act 2005 (c. 18), s. 53, Sch. 7 para. 3(6) (with s. 119); S.I. 2005/2034, art. 2

#### <sup>F29</sup>79R Reports of inspections.

- (1) A person who has conducted an inspection under section 79Q shall report in writing on the matters inspected to the Chief Inspector within the prescribed period.
- (2) The period mentioned in subsection (1) may, if the Chief Inspector considers it necessary, be extended by up to three months.
- (3) Once the report of an inspection has been made to the Chief Inspector under subsection (1) he—
- may send a copy of it to the Secretary of State, and shall do so without delay if the Secretary of State requests a copy;
  - shall send a copy of it, or of such parts of it as he considers appropriate, to any prescribed authorities or persons; and
  - may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.
- [<sup>F30</sup>(3A) Regulations may make provision—
- requiring a registered person to make a copy of any report sent to him under subsection (3)(b) available for inspection by prescribed persons,
  - requiring a registered person, except in prescribed cases, to provide a copy of the report to prescribed persons, and
  - authorising a registered person in prescribed cases to charge a fee for providing a copy of the report.]

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- (4) Subsections (2) to (4) of section 42A of the <sup>M5</sup>School Inspections Act 1996 shall apply in relation to the publication of any report under subsection (3) as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 42A.

#### Textual Amendments

- F29** S. 79R inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(ix)(x); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F30** S. 79R(3A) inserted (1.8.2005) by Education Act 2005 (c. 18), s. 53, Sch. 7 para. 4(4) (with s. 119); S.I. 2005/2034, art. 2

#### Marginal Citations

- M5** 1996 c. 57.

### *Inspection: Wales*

#### <sup>F31</sup>79S General functions of the Assembly.

- (1) The Assembly may secure the provision of training for persons who provide or assist in providing child minding or day care, or intend to do so.
- (2) In relation to child minding and day care provided in Wales, the Assembly shall have any additional function specified in regulations made by the Assembly; but the regulations may only specify a function corresponding to a function which, by virtue of section 79N(5), is exercisable by the Chief Inspector in relation to child minding and day care provided in England.

#### Textual Amendments

- F31** S. 79S inserted ((W.) 1.7.2001 for certain purposes otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### <sup>F32</sup>79T Inspection: Wales.

- (1) The Assembly may at any time require any registered person to provide it with any information connected with the person's activities as a child minder or provision of day care which the Assembly considers it necessary to have for the purposes of its functions under this Part.
- (2) The Assembly may by regulations make provision—
  - (a) for the inspection of the quality and standards of child minding provided in Wales by registered persons and of day care provided by registered persons on premises in Wales;
  - (b) for the publication of reports of the inspections in such manner as the Assembly considers appropriate.

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- (3) The regulations may provide for the inspections to be organised by—
  - (a) the Assembly; or
  - (b) Her Majesty’s Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Assembly.
- (4) The regulations may provide for subsections (2) to (4) of section 42A of the <sup>M6</sup>School Inspections Act 1996 to apply with modifications in relation to the publication of reports under the regulations.

#### Textual Amendments

**F32** S. 79T inserted ((W.) 1.7.2001 for certain purposes and otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### Marginal Citations

**M6** 1996 c. 57.

### Supplementary

#### <sup>F33</sup>79U Rights of entry etc.

- (1) [<sup>F34</sup>Any person authorised for the purposes of this subsection by the registration authority] may at any reasonable time enter any premises in England or Wales on which child minding or day care is at any time provided.
- (2) Where [<sup>F35</sup>a person who is authorised for the purposes of this subsection by the registration authority] has reasonable cause to believe that a child is being looked after on any premises in contravention of this Part, he may enter those premises at any reasonable time.

[<sup>F36</sup>(2A) Authorisation under subsection (1) or (2)—

- (a) may be given for a particular occasion or period;
- (b) may be given subject to conditions.]
- (3) [<sup>F37</sup>A person entering premises under this section may (subject to any conditions imposed under subsection (2A)(b))—
  - (a) inspect the premises;
  - (b) inspect, and take copies of—
    - (i) any records kept by the person providing the child minding or day care; and
    - (ii) any other documents containing information relating to its provision;
  - (c) seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;
  - (d) require any person to afford him such facilities and assistance with respect to matters within the person’s control as are necessary to enable him to exercise his powers under this section;
  - (e) take measurements and photographs or make recordings;

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- (f) inspect any children being looked after there, and the arrangements made for their welfare;
  - (g) interview in private the person providing the child minding or day care; and
  - (h) interview in private any person looking after children, or living or working, there who consents to be interviewed.
- (4) Section 42 of the <sup>M7</sup>School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of subsection (3) as it applies for the purposes of Part I of that Act.
- <sup>F38</sup>(5) . . . . .
- (6) A person exercising any power conferred by this section shall, if so required, produce some duly authenticated document showing his authority to do so.
- (7) It shall be an offence wilfully to obstruct a person exercising any such power.
- (8) Any person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (9) In this section—  
<sup>F39</sup> . . . . .  
“documents” and “records” each include information recorded in any form.

#### Textual Amendments

- F33** S. 79U inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)
- F34** Words in s. 79U(1) substituted (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 5(2) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F35** Words in s. 79U(2) substituted (2.9.2002 for E., 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 5(3) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F36** S. 79U(2A) inserted (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 5(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F37** Words in s. 79U(3) substituted (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 5(5) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F38** S. 79U(5) repealed (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, ss. 152, 215(2), Sch. 13 para. 5(6), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F39** S. 79U(9): definition of “authorised inspector” repealed (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 5(7), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2002/3185, art. 4, Sch. Pt. 1

#### Marginal Citations

- M7** 1996 c. 57.

#### <sup>F40</sup>79V Function of local authorities.

Each local authority shall, in accordance with regulations, secure the provision—

- (a) of information and advice about child minding and day care; and
- (b) of training for persons who provide or assist in providing child minding or day care.



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### Textual Amendments

**F40** S. 79V inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(xi) S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

### *Checks on suitability of persons working with children over the age of seven*

#### **F41**79W Requirement for certificate of suitability.

- (1) This section applies to any person not required to register under this Part who looks after, or provides care for, children and meets the following conditions.

References in this section to children are to those under the age of 15 or (in the case of disabled children) 17.

- (2) The first condition is that the period, or the total of the periods, in any week which he spends looking after children or (as the case may be) during which the children are looked after exceeds five hours.
- (3) The second condition is that he would be required to register under this Part (or, as the case may be, this Part if it were subject to prescribed modifications) if the children were under the age of eight.
- (4) Regulations may require a person to whom this section applies to hold a certificate issued by the registration authority as to his suitability, and the suitability of each prescribed person, to look after children.
- (5) The regulations may make provision about—
  - (a) applications for certificates;
  - (b) the matters to be taken into account by the registration authority in determining whether to issue certificates;
  - (c) the information to be contained in certificates;
  - (d) the period of their validity.
- (6) The regulations may provide that a person to whom this section applies shall be guilty of an offence—
  - (a) if he does not hold a certificate as required by the regulations; or
  - (b) if, being a person who holds such a certificate, he fails to produce it when reasonably required to do so by a prescribed person.
- (7) The regulations may provide that a person who, for the purpose of obtaining such a certificate, knowingly makes a statement which is false or misleading in a material particular shall be guilty of an offence.
- (8) The regulations may provide that a person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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#### Textual Amendments

- F41** S. 79W inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(1); S.I. 2001/1210, art. 2(a)(xii); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, Sch.; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

#### *Time limit for proceedings*

#### <sup>F42</sup>**79X Time limit for proceedings.**

Proceedings for an offence under this Part or regulations made under it may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.

#### Textual Amendments

- F42** S. 79X inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 79(1); S.I. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

**Status:**

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