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STATUTORY INSTRUMENTS

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**2003 No. 1992**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Day Care (Application to  
Schools) (England) Regulations 2003**

<i>Made</i>	- - - -	<i>1st August 2003</i>
<i>Laid before Parliament</i>		<i>8th August 2003</i>
<i>Coming into force</i>	- -	<i>1st September 2003</i>

The Secretary of State for Education and Skills in exercise of the powers conferred by section 104 of, and paragraph 1(1) of Schedule 9A to, the Children Act 1989(1), hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations shall be cited as the Day Care (Application to Schools) (England) Regulations 2003 and shall come into force on 1st September 2003.

(2) These Regulations apply only in relation to England.

**Interpretation**

2. In these Regulations—

“the Act” means the Children Act 1989;

“relevant day care” means day care within the meaning of paragraph 1(2) of Schedule 9A to the Act provided for any child looked after in a school falling within the categories of school referred to in paragraph 1(1) of that Schedule.

**Requirement to register day care in schools under Part XA**

3. Subject to regulation 4, Part XA of the Act shall apply to the provision of relevant day care in all circumstances on or after 1st April 2004 or, if earlier, from the date of the determination of any application for registration under Part XA made by a person who provides relevant day care on any premises (“the provider”).

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(1) 1989 c. 41; Schedule 9A was inserted by the Care Standards Act 2000 (c. 14), section 79 and Schedule 3. For the definition of “prescribed” see section 105(1) of the Act.

- 4.—(1) The provider shall not be treated as providing day care in breach of section 79D(5) of the Act where that care has been provided since before 1st April 2004 and either—
- (a) the registration date has not yet been reached and, where the provider has made an application for registration under Part XA, the application is pending; or
  - (b) the registration date has been reached but the provider made an application for registration under Part XA of the Act for providing day care on those premises before the application date, and the application is pending.
- (2) An application is “pending” if—
- (a) it has not been granted or withdrawn; and
  - (b) if it has been refused—
    - (i) the period of time within which an appeal may be brought has not expired and the provider has not indicated in writing that he does not intend to appeal; or
    - (ii) an appeal has been brought which has not been finally determined or withdrawn in writing.
- (3) In paragraph (1)—
- (a) in relation to relevant day care provided for the first time on or after 1st September 2003, the “registration date” is 1st September 2004 and the “application date” is 1st April 2004;
  - (b) in relation to relevant day care provided since before 1st September 2003 which includes care for a child under 2 years of age, the “registration date” is 1st September 2004 and the “application date” is 1st April 2004;
  - (c) in relation to relevant day care provided since before 1st September 2003 solely for a child or children aged 2 or over, the “registration date” is 1st September 2005 and the “application date” 1st April 2005.

1st August 2003

*Catherine Ashton*  
Parliamentary Under Secretary of State,  
Department for Education and Skills

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## EXPLANATORY NOTE

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

These Regulations require all schools that were previously exempt from the requirement to do so to register under Part XA of the Children Act any day care provided by them for children under 8.

Schools that will provide day care (as defined in section 79A of the Children Act 1989) for the first time on or after 1 April 2004 must be registered as day care providers before they open for business. Schools that will provide day care for the first time on or after 1st September 2003 but before 1st April 2004 and schools that commenced operation as day care providers before 1st September 2003 whose provision includes provision for a child or children under the age of 2 must register before 1st September 2004. Schools that commenced operation as day care providers before 1st September 2003 for children aged 2 or more must be registered before 1st September 2005. Section 79D which prohibits the provision of unregistered day care will apply to providers of day care in schools who are required to register by 1st September 2004 or 1st September 2005 from the date of the determination of their application for registration.

Under the transitional provisions schools that commenced operation as day care providers before 1st April 2004 and who apply for registration in accordance with the Regulations will not be treated as providing unregistered care in breach of the Act if their application for registration has not been determined by the specified deadline for registration.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Standards Team in the Sure Start Unit, Department for Education and Skills, Level 2A, Caxton House, 6-12 Tothill Street, London SW1A 9NA and is accessible on the Department's internet website at [www.dfes.gov.uk/ria/](http://www.dfes.gov.uk/ria/). Copies have also been placed in the Library of each House of Parliament.