

SCHEDULE 2

Saving and transitional provisions in respect of Part 10A of,
and Schedule 9A to, the 1989 Act, and Part 3 of the 2006 Act

PART 2

Notices and Appeals

Notice of intention to refuse an application for registration under section 79L(1)(a)

16.—(1) This paragraph applies where the Chief Inspector has, before the transfer date, sent a notice to a person of intention to refuse an application for registration under section 79L(1)(a)(1) (notice of intention to take steps) of the 1989 Act.

(2) The notice shall, on and after the transfer date, be treated as notice given under section 73(2) (procedure for taking certain steps) of the 2006 Act.

(3) A person who has, before the transfer date, informed the Chief Inspector of the desire to object to the step being taken under section 79L(3) of the 1989 Act, shall be treated as having given notice under section 73(5) of the 2006 Act.

(4) An objection made before the transfer date under section 79L(3) of the 1989 Act to a step being taken shall be treated on and after that date as having been made in pursuance to section 73(5) of the 2006 Act.

(5) A notice sent to a person by the Chief Inspector in accordance with section 79L(5) of the 1989 Act before the transfer date shall be treated on and after that date as being notice given under section 73(7) of the 2006 Act.

(6) Where this paragraph applies, a notice continues to have effect only to the extent that it could have been given under section 73 of the 2006 Act.

Notice of intention to take steps under section 79L(1)(b) to (d) of the 1989 Act

17.—(1) This paragraph applies where—

- (a) a person is registered in accordance with this Schedule;
- (b) the Chief Inspector has, before the transfer date, sent a notice to the person of intention to take one of the steps mentioned in section 79L(1)(b) to (d)(2) of the 1989 Act; and
- (c) that step has not taken effect.

(2) The notice sent to the person under section 79L(1) shall, on and after the transfer date, be treated as being notice given under section 73(2) of the 2006 Act.

(3) A person who has, before the transfer date, informed the Chief Inspector of the desire to object to the step being taken under section 79L(3) of the 1989 Act, shall be treated as having given notice under section 73(5) of the 2006 Act.

(4) An objection made before the transfer date under section 79L(3) of the 1989 Act to a step being taken shall be treated on and after that date as having been made in pursuance to section 73(5) of the 2006 Act.

(1) The effect of section 79L(1)(a) of the 1989 Act in England is that the Chief Inspector must give notice of not less than 14 days before refusing an application for registration.

(2) The effect of section 79L(1)(b) to (d) of the 1989 Act in England is that the Chief Inspector must give notice of not less than 14 days before cancelling a registration; removing or varying any condition to which a registration is subject or imposing a new condition; or refusing to grant an application for the removal or variation of any condition to which a registration is subject.

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(5) A notice sent to a person by the Chief Inspector in accordance with section 79L(5) of the 1989 Act before the transfer date shall be treated on and after that date as being notice given under section 73(7) of the 2006 Act.

(6) Where this paragraph applies, a notice continues to have effect only to the extent that it could have been given under section 73 of the 2006 Act.

Appeals against steps mentioned in section 79L(1) of the 1989 Act

18.—(1) This paragraph applies where an appeal has been made before the transfer date to the Tribunal⁽³⁾ under section 79M(1) of the 1989 Act against a step taken by the Chief Inspector mentioned in section 79L(1), in respect of which the Tribunal has not reached a decision under section 79M(2).

(2) The appeal shall be treated, from the transfer date, as being an appeal under section 74 (appeals) of the 2006 Act.

(3) Where this paragraph applies, an appeal falls to be decided as if the step in respect of which the appeal is brought had been taken under the 2006 Act.

Appeals: Protection of children in an emergency

19.—(1) This paragraph applies where an appeal has been made before the transfer date to the Tribunal under section 79M(1) of the 1989 Act against an order under section 79K (protection of children in an emergency) of the 1989 Act, in respect of which the Tribunal has not reached a decision under section 79M(2).

(2) The appeal shall be treated, from the transfer date, as being an appeal under section 74(3) of the 2006 Act.

Appeals: disqualification

20.—(1) This paragraph applies where an appeal has been made before the transfer date to the Tribunal under section 79M(1) of the 1989 Act against a determination by the Chief Inspector under regulation 9 (waivers) of the Disqualification Regulations 2005, in respect of which the Tribunal has not reached a decision under section 79M(2).

(2) The appeal shall be treated, on and after the transfer date, as being an appeal brought under regulation 9 of the Disqualification Regulations 2007.

Notice under section 79D (requirement to register) of the 1989 Act

21. Where, before the transfer date, the Chief Inspector has served an enforcement notice under section 79D(2)(4) of the 1989 Act, the notice continues to have effect on and after the transfer date as if it had been served under section 33(4) or 52(4) of the 2006 Act, as the case may be.

Notice under the National Standards Regulations

22.—(1) Subject to sub-paragraph (2), a notice given by the Chief Inspector to a person under regulation 8(1) (notice) of the National Standards Regulations shall be treated, from the transfer date,

(3) By virtue of section 98 and 69(11) of the 2006 Act, “the Tribunal” means the Tribunal established by section 9 of the Protection of Children Act 1999 (c. 14).

(4) The effect of section 79D(2) of the 1989 Act in England (before 1st September 2008) is that the Chief Inspector may serve an enforcement notice on a person who appears to have contravened the requirement in section 79D(1) not to act as a child minder unless registered under Part 10A of that Act. By virtue of section 79D(4), a person in respect of whom an enforcement notice has effect who contravenes section 79D(1) without reasonable excuse is guilty of an offence.

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as having been given under regulation 9 (failure to comply with welfare requirements notice) of the Early Years Foundation Stage (Welfare Requirements) Regulations 2007(5).

(2) The notice shall only continue to have effect as provided in sub-paragraph (1) where a person is registered under section 37(1) or (2) of the 2006 Act by the Chief Inspector in accordance with this Schedule, and to the following extent—

- (a) the person in receipt of the notice has failed to meet, or would have failed to meet, the welfare requirements specified in Section 3 of the EYFS Statutory Framework; or
- (b) the person in receipt of the notice has failed to have regard to, or would have failed to have regard to, the guidance in Section 3 of the EYFS Statutory Framework.

(5) By virtue of regulation 10 of the National Standards Regulations a person who, without reasonable excuse, fails to comply with the terms of a notice given under regulation 8 is guilty of an offence.