

EXPLANATORY MEMORANDUM TO
THE CHILDCARE (MISCELLANEOUS AMENDMENTS) (EU EXIT) (ENGLAND)
REGULATIONS 2018

2018 No. 1116

1. Introduction

- 1.1 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

- 2.1 This instrument makes minor amendments to The Childcare (Support and Disclosure of Information) (England) Regulations 2007, The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 and The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014.
- 2.2 The minor drafting changes will ensure that existing information sharing provisions between England and national childcare regulators in the European Economic Area (EEA), are retained after the UK's withdrawal from the European Union (EU) on 29th March 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is to England only.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 This instrument will amend three sets of regulations, which concern the sharing of information about childcare providers, between Ofsted, childminder agencies and national childcare regulators in member states of the EEA, for the purpose of protecting children from harm or neglect. Ofsted is the Office for Standards in Education, Children's Services and Skills. They inspect and regulate services that care

for children and young people, and services providing education and skills for learners of all ages. A childminder agency is an organisation that is able to register childminders in England and may provide a range of services to its members and parents.

- 6.2 The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 – regulation 5, prescribes information that Ofsted can request from a third party (including a childcare regulator in an EEA member state) relating to an application for registration as a childcare provider in England. If the applicant withholds or withdraws consent for Ofsted to seek any of this information, this gives Ofsted grounds for refusing the registration.
- 6.3 The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014 – regulation 19. This is similar to the provision described in the previous paragraph, but places the onus on a childminder agency (rather than Ofsted) to supply information on any childminder registered with them to an EEA member state national childcare regulator where requested.
- 6.4 The Childcare (Supply and Disclosure of Information) (England) Regulations 2007 – regulation 9 requires Ofsted to provide information about childcare providers and childminder agencies on its registers to certain authorities when requested. One of the authorities listed is the national authority regulating childcare in another EEA member state.
- 6.5 This instrument makes minor drafting changes to retain these information-sharing provisions between England and national childcare regulators in the EEA, after the UK's withdrawal from the EU on 29th March 2019, for the purpose of protecting children from harm or neglect.

7. Policy background

- 7.1 The UK will leave the EU on 29th March 2019. This instrument ensures that information sharing provisions between the childcare regulator in England (Ofsted) and childcare regulators in EEA member states are retained after the UK's withdrawal from the EU.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but made under sections 84(1) and (3), 84A(1) and (3), 90(2) and 104(2) of the Childcare Act 2006 as these powers allow for these changes to be made. This instrument makes minor drafting changes to reflect the status of the UK after leaving the EU on 29th March 2019.

9. Consolidation

- 9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

- 10.1 No public consultation has been undertaken because no substantial changes are being made to existing regulations.

11. Guidance

11.1 No guidance is required.

12. Impact

12.1 There is no, or no significant impact, on business, charities or voluntary bodies.

12.2 There is no, or not significant impact, on the public sector.

12.3 An impact assessment has not been prepared because it falls below the threshold for requiring one.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

14. Monitoring & review

14.1 There are no plans to monitor or review this legislation. This is because the instrument retains existing provisions and makes only minor amendments to reflect the position after the UK leaves the EU on 29th March 2019.

15. Contact

15.1 Charlotte Clarke at the Department for Education, Telephone: 020 7227 5364 or email: Charlotte.Clarke@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Susie Owen, Deputy Director for Early Years Quality, Outcomes and Providers at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister Zahawi at the Department for Education, can confirm that this Explanatory Memorandum meets the required standard.

