



Children Act 1989

1989 CHAPTER 41

PART X

CHILD MINDING AND DAY CARE FOR YOUNG CHILDREN

71 Registration

- (1) Every local authority shall keep a register of—
 - (a) persons who act as child minders on domestic premises within the authority's area; and
 - (b) persons who provide day care for children under the age of eight on premises (other than domestic premises) within that area.
- (2) For the purposes of this Part—
 - (a) a person acts as a child minder if—
 - (i) he looks after one or more children under the age of eight, for reward; and
 - (ii) the period, or the total of the periods, which he spends so looking after children in any day exceeds two hours; and
 - (b) a person does not provide day care for children unless the period, or the total of the periods, during which children are looked after exceeds two hours in any day.
- (3) Where a person provides day care for children under the age of eight on different premises situated within the area of the same local authority, that person shall be separately registered with respect to each of those premises.
- (4) A person who—
 - (a) is the parent, or a relative, of a child;
 - (b) has parental responsibility for a child; or
 - (c) is a foster parent of a child,does not act as a child minder for the purposes of this Part when looking after that child.

Status: This is the original version (as it was originally enacted).

- (5) Where a person is employed as a nanny for a child, she does not act as a child minder when looking after that child wholly or mainly in the home of the person so employing her.
- (6) Where a person is so employed by two different employers, she does not act as a child minder when looking after any of the children concerned wholly or mainly in the home of either of her employers.
- (7) A local authority may refuse to register an applicant for registration under subsection (1)(a) if they are satisfied that—
- (a) the applicant; or
 - (b) any person looking after, or likely to be looking after, any children on any premises on which the applicant is, or is likely to be, child minding,
- is not fit to look after children under the age of eight.
- (8) A local authority may refuse to register an applicant for registration under subsection (1)(a) if they are satisfied that—
- (a) any person living, or likely to be living, at any premises on which the applicant is, or is likely to be, child minding; or
 - (b) any person employed, or likely to be employed, on those premises,
- is not fit to be in the proximity of children under the age of eight.
- (9) A local authority may refuse to register an applicant for registration under subsection (1)(b) if they are satisfied that any person looking after, or likely to be looking after, any children on the premises to which the application relates is not fit to look after children under the age of eight.
- (10) A local authority may refuse to register an applicant for registration under subsection (1)(b) if they are satisfied that—
- (a) any person living, or likely to be living, at the premises to which the application relates; or
 - (b) any person employed, or likely to be employed, on those premises,
- is not fit to be in the proximity of children under the age of eight.
- (11) A local authority may refuse to register an applicant for registration under this section if they are satisfied—
- (a) in the case of an application under subsection (1)(a), that any premises on which the applicant is, or is likely to be, child minding; or
 - (b) in the case of an application under subsection (1)(b), that the premises to which the application relates,
- are not fit to be used for looking after children under the age of eight, whether because of their condition or the condition of any equipment used on the premises or for any reason connected with their situation, construction or size.
- (12) In this section—
- “domestic premises” means any premises which are wholly or mainly used as a private dwelling;
 - “premises” includes any vehicle.
- (13) For the purposes of this Part a person acts as a nanny for a child if she is employed to look after the child by—
- (a) a parent of the child;

- (b) a person who is not a parent of the child but who has parental responsibility for him; or
 - (c) a person who is a relative of the child and who has assumed responsibility for his care.
- (14) For the purposes of this section, a person fosters a child if—
- (a) he is a local authority foster parent in relation to the child;
 - (b) he is a foster parent with whom the child has been placed by a voluntary organisation; or
 - (c) he fosters the child privately.
- (15) Any register kept under this section—
- (a) shall be open to inspection by members of the public at all reasonable times; and
 - (b) may be kept by means of a computer.
- (16) Schedule 9 shall have effect for the purpose of making further provision with respect to registration under this section including, in particular, further provision for exemption from the requirement to be registered and provision for disqualification.

72 Requirements to be complied with by child minders

- (1) Where a local authority register a person under section 71(1)(a), they shall impose such reasonable requirements on him as they consider appropriate in his case.
- (2) In imposing requirements on him, the authority shall—
- (a) specify the maximum number of children, or the maximum number of children within specified age groups, whom he may look after when acting as a child minder;
 - (b) require him to secure that any premises on which he so looks after any child, and the equipment used in those premises, are adequately maintained and kept safe;
 - (c) require him to keep a record of the name and address of—
 - (i) any child so looked after by him on any premises within the authority's area;
 - (ii) any person who assists in looking after any such child; and
 - (iii) any person living, or likely at any time to be living, at those premises;
 - (d) require him to notify the authority in writing of any change in the persons mentioned in paragraph (c)(ii) and (iii).
- (3) The Secretary of State may by regulations make provision as to—
- (a) requirements which must be imposed by local authorities under this section in prescribed circumstances;
 - (b) requirements of such descriptions as may be prescribed which must not be imposed by local authorities under this section.
- (4) In determining the maximum number of children to be specified under subsection (2) (a), the authority shall take account of the number of other children who may at any time be on any premises on which the person concerned acts, or is likely to act, as a child minder.

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- (5) Where, in addition to the requirements mentioned in subsection (2), a local authority impose other requirements, those other requirements must not be incompatible with any of the subsection (2) requirements.
- (6) A local authority may at any time vary any requirement imposed under this section, impose any additional requirement or remove any requirement.

73 Requirements to be complied with by persons providing day care for young children

- (1) Where a local authority register a person under section 71(1)(b) they shall impose such reasonable requirements on him as they consider appropriate in his case.
- (2) Where a person is registered under section 71(1)(b) with respect to different premises within the area of the same authority, this section applies separately in relation to each registration.
- (3) In imposing requirements on him, the authority shall—
 - (a) specify the maximum number of children, or the maximum number of children within specified age groups, who may be looked after on the premises;
 - (b) require him to secure that the premises, and the equipment used in them, are adequately maintained and kept safe;
 - (c) require him to notify the authority of any change in the facilities which he provides or in the period during which he provides them;
 - (d) specify the number of persons required to assist in looking after children on the premises;
 - (e) require him to keep a record of the name and address of—
 - (i) any child looked after on the registered premises;
 - (ii) any person who assists in looking after any such child; and
 - (iii) any person who lives, or is likely at any time to be living, at those premises;
 - (f) require him to notify the authority of any change in the persons mentioned in paragraph (e)(ii) and (iii).
- (4) The Secretary of State may by regulations make provision as to—
 - (a) requirements which must be imposed by local authorities under this section in prescribed circumstances;
 - (b) requirements of such descriptions as may be prescribed which must not be imposed by local authorities under this section.
- (5) In subsection (3), references to children looked after are to children looked after in accordance with the provision of day care made by the registered person.
- (6) In determining the maximum number of children to be specified under subsection (3) (a), the authority shall take account of the number of other children who may at any time be on the premises.
- (7) Where, in addition to the requirements mentioned in subsection (3), a local authority impose other requirements, those other requirements must not be incompatible with any of the subsection (3) requirements.

- (8) A local authority may at any time vary any requirement imposed under this section, impose any additional requirement or remove any requirement.

74 Cancellation of registration

- (1) A local authority may at any time cancel the registration of any person under section 71(1)(a) if—
- (a) it appears to them that the circumstances of the case are such that they would be justified in refusing to register that person as a child minder;
 - (b) the care provided by that person when looking after any child as a child minder is, in the opinion of the authority, seriously inadequate having regard to the needs of that child; or
 - (c) that person has—
 - (i) contravened, or failed to comply with, any requirement imposed on him under section 72; or
 - (ii) failed to pay any annual fee under paragraph 7 of Schedule 9 within the prescribed time.
- (2) A local authority may at any time cancel the registration of any person under section 71(1)(b) with respect to particular premises if—
- (a) it appears to them that the circumstances of the case are such that they would be justified in refusing to register that person with respect to those premises;
 - (b) the day care provided by that person on those premises is, in the opinion of the authority, seriously inadequate having regard to the needs of the children concerned; or
 - (c) that person has—
 - (i) contravened, or failed to comply with, any requirement imposed on him under section 73; or
 - (ii) failed to pay any annual fee under paragraph 7 of Schedule 9 within the prescribed time.
- (3) A local authority may at any time cancel all registrations of any person under section 71(1)(b) if it appears to them that the circumstances of the case are such that they would be justified in refusing to register that person with respect to any premises.
- (4) Where a requirement to carry out repairs or make alterations or additions has been imposed on a registered person under section 72 or 73, his registration shall not be cancelled on the ground that the premises are not fit to be used for looking after children if—
- (a) the time set for complying with the requirements has not expired, and
 - (b) it is shown that the condition of the premises is due to the repairs not having been carried out or the alterations or additions not having been made.
- (5) Any cancellation under this section must be in writing.
- (6) In considering the needs of any child for the purposes of subsection (1)(b) or (2)(b), a local authority shall, in particular, have regard to the child's religious persuasion, racial origin and cultural and linguistic background.

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75 Protection of children in an emergency

- (1) If—
 - (a) a local authority apply to the court for an order—
 - (i) cancelling a registered person's registration;
 - (ii) varying any requirement imposed on a registered person under section 72 or 73; or
 - (iii) removing a requirement or imposing an additional requirement on such a person; and
 - (b) it appears to the court 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 court may make the order.
- (2) Any such cancellation, variation, removal or imposition shall have effect from the date on which the order is made.
- (3) An application under subsection (1) may be made *ex parte* and shall be supported by a written statement of the authority's reasons for making it.
- (4) Where an order is made under this section, the authority shall serve on the registered person, as soon as is reasonably practicable after the making of the order—
 - (a) notice of the order and of its terms; and
 - (b) a copy of the statement of the authority's reasons which supported their application for the order.
- (5) Where the court imposes or varies any requirement under subsection (1), the requirement, or the requirement as varied, shall be treated for all purposes, other than those of section 77, as if it had been imposed under section 72 or (as the case may be) 73 by the authority concerned.

76 Inspection

- (1) Any person authorised to do so by a local authority may at any reasonable time enter—
 - (a) any domestic premises within the authority's area on which child minding is at any time carried on; or
 - (b) any premises within their area on which day care for children under the age of eight is at any time provided.
- (2) Where a local authority have reasonable cause to believe that a child is being looked after on any premises within their area in contravention of this Part, any person authorised to do so by the authority may enter those premises at any reasonable time.
- (3) Any person entering premises under this section may inspect—
 - (a) the premises;
 - (b) any children being looked after on the premises;
 - (c) the arrangements made for their welfare; and
 - (d) any records relating to them which are kept as a result of this Part.
- (4) Every local authority shall exercise their power to inspect the premises mentioned in subsection (1) at least once every year.
- (5) Any person inspecting any records under this section—

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- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is, or has been, in use in connection with the records in question; and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford him such reasonable assistance as he may require.
- (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) Any person who intentionally obstructs another in the exercise of any such power shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

77 Appeals

- (1) Not less than 14 days before—
- (a) refusing an application for registration under section 71;
 - (b) cancelling any such registration;
 - (c) refusing consent under paragraph 2 of Schedule 9;
 - (d) imposing, removing or varying any requirement under section 72 or 73; or
 - (e) refusing to grant any application for the variation or removal of any such requirement,
- the authority concerned shall send to the applicant, or (as the case may be) registered person, notice in writing of their intention to take the step in question (“the step”).
- (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 in person or by a representative.
- (5) If the authority, after giving the person concerned an opportunity to object to the step being taken, decide nevertheless to take it they shall send him written notice of their decision.
- (6) A person aggrieved by the taking of any step mentioned in subsection (1) may appeal against it to the court.
- (7) Where the court imposes or varies any requirement under subsection (8) or (9) the requirement, or the requirement as varied, shall be treated for all purposes (other than this section) as if it had been imposed by the authority concerned.
- (8) Where the court allows an appeal against the refusal or cancellation of any registration under section 71 it may impose requirements under section 72 or (as the case may be) 73.

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- (9) Where the court allows an appeal against such a requirement it may, instead of cancelling the requirement, vary it.
- (10) In Scotland, an appeal under subsection (6) shall be by summary application to the sheriff and shall be brought within 21 days from the date of the step to which the appeal relates.
- (11) A step of a kind mentioned in subsection (1)(b) or (d) shall not take effect until the expiry of the time within which an appeal may be brought under this section or, where such an appeal is brought, before its determination.

78 Offences

- (1) No person shall provide day care for children under the age of eight on any premises within the area of a local authority unless he is registered by the authority under section 71(1)(b) with respect to those premises.
- (2) If any person contravenes subsection (1) without reasonable excuse, he shall be guilty of an offence.
- (3) No person shall act as a child minder on domestic premises within the area of a local authority unless he is registered by the authority under section 71(1)(a).
- (4) Where it appears to a local authority that a person has contravened subsection (3), they may serve a notice (“an enforcement notice”) on him.
- (5) An enforcement notice shall have effect for a period of one year beginning with the date on which it is served.
- (6) If a person with respect to whom an enforcement notice is in force contravenes subsection (3) without reasonable excuse he shall be guilty of an offence.
- (7) Subsection (6) applies whether or not the subsequent contravention occurs within the area of the authority who served the enforcement notice.
- (8) Any person who without reasonable excuse contravenes, or otherwise fails to comply with, any requirement imposed on him under section 72 or 73 shall be guilty of an offence.
- (9) If any person—
 - (a) acts as a child minder on domestic premises at any time when he is disqualified by regulations made under paragraph 2 of Schedule 9; or
 - (b) contravenes any of sub-paragraphs (3) to (5) of paragraph 2,
 he shall be guilty of an offence.
- (10) Where a person contravenes sub-paragraph (3) of paragraph 2 he shall not be guilty of an offence under this section if he proves that he did not know, and had no reasonable grounds for believing, that the person in question was living or employed in the household.
- (11) Where a person contravenes sub-paragraph (5) of paragraph 2 he shall not be guilty of an offence under this section if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified.
- (12) A person guilty of an offence under this section shall be liable on summary conviction—

- (a) in the case of an offence under subsection (8), to a fine not exceeding level 4 on the standard scale;
- (b) in the case of an offence under subsection (9), to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both; and
- (c) in the case of any other offence, to a fine not exceeding level 5 on the standard scale.

79 Application of this Part to Scotland

In the application to Scotland of this Part—

- (a) “the court” means the sheriff;
- (b) “day care” means any form of care or of activity supervised by a responsible person provided for children during the day (whether or not it is provided on a regular basis);
- (c) “education authority” has the same meaning as in the Education (Scotland) Act 1980;
- (d) “local authority foster parent” means a foster parent with whom a child is placed by a local authority;
- (e) for references to a person having parental responsibility for a child there shall be substituted references to a person in whom parental rights and duties relating to the child are vested; and
- (f) for references to fostering a child privately there shall be substituted references to maintaining a foster child within the meaning of the Foster Children (Scotland) Act 1984.