



# Childcare Act 2006

## 2006 CHAPTER 21

### PART 3

#### REGULATION OF PROVISION OF CHILDCARE IN ENGLAND

### CHAPTER 1

#### GENERAL FUNCTIONS OF CHIEF INSPECTOR

### **31 General functions of the Chief Inspector**

- (1) The Chief Inspector has the general duty of keeping the Secretary of State informed about—
  - (a) the contribution of regulated early years provision in England to the well-being of children for whom it is provided;
  - (b) the quality and standards of regulated early years provision in England;
  - (c) how far regulated early years provision in England meets the needs of the range of children for whom it is provided;
  - (d) the quality of leadership and management in connection with regulated early years provision in England.
- (2) In subsection (1), “regulated early years provision” means early years provision in respect of which a person is required to be registered under Chapter 2 or in respect of which he would be required to be registered under that Chapter but for section 34(2) (exemption for provision for children aged 3 or over at certain schools).
- (3) When asked to do so by the Secretary of State, the Chief Inspector must give advice to the Secretary of State on such matters relating to early years provision or later years provision in England as may be specified in the Secretary of State’s request.
- (4) The Chief Inspector may at any time give advice to the Secretary of State on any matter connected with—
  - (a) early years provision or later years provision in England generally, or

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- (b) early years provision or later years provision in England by particular persons or on particular premises.
- (5) The Chief Inspector is to have such other functions in connection with early years provision or later years provision in England as may be assigned to him by the Secretary of State.

### **32 Maintenance of the two childcare registers**

- (1) The Chief Inspector must maintain two registers.
- (2) The first register (“the early years register”) is to be a register of all persons who are registered as early years childminders or other early years providers under Chapter 2 (which provides for the compulsory registration of persons providing early years provision).
- (3) The second register (“the general childcare register”) is to be divided into two Parts.
- (4) The first Part (“Part A”) is to be a register of all persons who are registered as later years childminders or other later years providers under Chapter 3 (which provides for the compulsory registration of persons providing later years provision for children under the age of eight).
- (5) The second Part (“Part B”) is to be a register of all persons who are registered as childminders or other childcare providers under Chapter 4 (which provides for the voluntary registration of persons providing early years provision or later years provision in respect of which they are not required to be registered under Chapter 2 or 3).

## **CHAPTER 2**

### REGULATION OF EARLY YEARS PROVISION

#### *Requirements to register*

### **33 Requirement to register: early years childminders**

- (1) A person may not provide early years childminding in England unless he is registered in the early years register as an early years childminder.
- (2) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to early years childminding.
- (3) The circumstances specified in an order under subsection (2) may relate to one or more of the following matters (among others)—
  - (a) the person providing the early years childminding;
  - (b) the child or children for whom it is provided;
  - (c) the nature of the early years childminding;
  - (d) the premises on which it is provided;
  - (e) the times during which it is provided;
  - (f) the arrangements under which it is provided.

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- (4) If it appears to the Chief Inspector that a person has provided early years childminding in contravention of subsection (1), he may serve a notice (“an enforcement notice”) on the person.
- (5) An enforcement notice may be served on a person—
  - (a) by delivering it to him, or
  - (b) by sending it by post.
- (6) An enforcement notice has effect until it is revoked by the Chief Inspector.
- (7) A person commits an offence if, at any time when an enforcement notice has effect in relation to him and without reasonable excuse, he provides early years childminding in contravention of subsection (1).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **34 Requirement to register: other early years providers**

- (1) A person may not provide—
  - (a) early years provision on premises in England which are not domestic premises, or
  - (b) early years provision on domestic premises in England which would be early years childminding but for section 96(5),unless he is registered in the early years register in respect of the premises.
- (2) Subsection (1) does not apply in relation to early years provision for a child or children who has (or have) attained the age of three if—
  - (a) the provision is made at any of the following schools as part of the school’s activities—
    - (i) a maintained school,
    - (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools), or
    - (iii) an independent school,
  - (b) the provision is made by the proprietor of the school or a person employed to work at the school, and
  - (c) the child is a registered pupil at the school or, if the provision is made for more than one child, at least one of the children is a registered pupil at the school.
- (3) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to early years provision.
- (4) The circumstances specified in an order under subsection (3) may relate to one or more of the following matters (among others)—
  - (a) the person providing the early years provision;
  - (b) the child or children for whom it is provided;
  - (c) the nature of the early years provision;
  - (d) the premises on which it is provided;
  - (e) the times during which it is provided;
  - (f) the arrangements under which it is provided.

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- (5) A person commits an offence if, without reasonable excuse, he provides early years provision in contravention of subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Process of registration*

#### **35 Applications for registration: early years childminders**

- (1) A person who proposes to provide early years childminding in respect of which he is required by section 33(1) to be registered may make an application to the Chief Inspector for registration as an early years childminder.
- (2) An application under subsection (1) must—
  - (a) give any prescribed information about prescribed matters,
  - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
  - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if—
  - (a) the applicant is not disqualified from registration by regulations under section 75, and
  - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
  - (a) the applicant;
  - (b) the premises on which the early years childminding is to be provided;
  - (c) the arrangements for early years childminding on those premises;
  - (d) any person who may be caring for children on those premises;
  - (e) any other person who may be on those premises.

#### **36 Applications for registration: other early years providers**

- (1) A person who proposes to provide on any premises early years provision in respect of which he is required by section 34(1) to be registered may make an application to the Chief Inspector for registration as an early years provider in respect of the premises.
- (2) An application under subsection (1) must—
  - (a) give any prescribed information about prescribed matters,
  - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
  - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if—

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- (a) the applicant is not disqualified from registration by regulations under section 75, and
  - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
- (a) the applicant;
  - (b) the premises on which the early years provision is to be provided;
  - (c) the arrangements for early years provision on those premises;
  - (d) any person who may be caring for children on those premises;
  - (e) any other person who may be on those premises.

### **37 Entry on the register and certificates**

- (1) If an application under section 35(1) is granted, the Chief Inspector must—
- (a) register the applicant in the early years register as an early years childminder, and
  - (b) give the applicant a certificate of registration stating that he is so registered.
- (2) If an application under section 36(1) is granted, the Chief Inspector must—
- (a) register the applicant in the early years register as an early years provider other than a childminder, in respect of the premises in question, and
  - (b) give the applicant a certificate of registration stating that he is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the registered early years provider an amended certificate.
- (5) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the registered early years provider a copy, on payment by the provider of any prescribed fee.

### **38 Conditions on registration**

- (1) The Chief Inspector may impose such conditions as he thinks fit on the registration of an early years provider under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers the person in pursuance of section 37 or at any subsequent time.
- (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
- (4) The power conferred by subsection (1) includes power to impose conditions for the purpose of giving effect to an order under subsection (1)(a) of section 39 or regulations under subsection (1)(b) of that section.

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- (5) An early years provider registered under this Chapter commits an offence if, without reasonable excuse, he fails to comply with any condition imposed under subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

*Requirements to be met by early years providers*

### **39 The Early Years Foundation Stage**

- (1) For the purpose of promoting the well-being of young children for whom early years provision is provided by early years providers to whom section 40 applies, the Secretary of State must—
  - (a) by order specify in accordance with section 41 such requirements as he considers appropriate relating to learning by, and the development of, such children (“learning and development requirements”), and
  - (b) by regulations specify in accordance with section 43 such requirements as he considers appropriate governing the activities of early years providers to whom section 40 applies (“welfare requirements”).
- (2) The learning and development requirements and the welfare requirements are together to be known as “the Early Years Foundation Stage”.

### **40 Duty to implement Early Years Foundation Stage**

- (1) This section applies to—
  - (a) early years providers providing early years provision in respect of which they are registered under this Chapter, and
  - (b) early years providers providing early years provision in respect of which, but for section 34(2) (exemption for provision for children aged 3 or over at certain schools), they would be required to be registered under this Chapter.
- (2) An early years provider to whom this section applies—
  - (a) must secure that the early years provision meets the learning and development requirements, and
  - (b) must comply with the welfare requirements.

### **41 The learning and development requirements**

- (1) The learning and development requirements must cover the areas of learning and development specified in subsection (3).
- (2) The learning and development requirements may specify in relation to each of the areas of learning and development—
  - (a) the knowledge, skills and understanding which young children of different abilities and maturities are expected to have before the 1st September next following the day on which they attain the age of five (“early learning goals”);
  - (b) the matters, skills and processes which are required to be taught to young children of different abilities and maturities (“educational programmes”), and

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- (c) the arrangements which are required for assessing children for the purpose of ascertaining what they have achieved in relation to the early learning goals (“assessment arrangements”).
- (3) The areas of learning and development are as follows—
- (a) personal, social and emotional development,
  - (b) communication, language and literacy,
  - (c) problem solving, reasoning and numeracy,
  - (d) knowledge and understanding of the world,
  - (e) physical development, and
  - (f) creative development.
- (4) The Secretary of State may by order amend subsection (3).
- (5) A learning and development order may not require—
- (a) the allocation of any particular period or periods of time to the teaching of any educational programme or any matter, skill or process forming part of it, or
  - (b) the making in the timetables of any early years provider of provision of any particular kind for the periods to be allocated to such teaching.
- (6) In this section “a learning and development order” means an order under section 39(1)
- (a).

## **42 Further provisions about assessment arrangements**

- (1) A learning and development order specifying assessment arrangements may confer or impose on any of the persons mentioned in subsection (2) such functions as appear to the Secretary of State to be required.
- (2) Those persons are—
- (a) an early years provider,
  - (b) the governing body or head teacher of a maintained school in England, and
  - (c) an English local authority.
- (3) A learning and development order may specify such assessment arrangements as may for the time being be made by a person specified in the order.
- (4) Provision must be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements were made; and any such provision may be made by or under the learning and development order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.
- (5) The duties that may be imposed by virtue of subsection (1) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (4), the duty to permit them—
- (a) to enter premises on which the early years provision is provided,
  - (b) to observe implementation of the arrangements, and
  - (c) to inspect, and take copies of, documents and other articles.
- (6) A learning and development order specifying assessment arrangements may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions

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as mentioned in subsection (1)) as appear to the Secretary of State to be expedient; and any provisions made under such an order, on being published as specified in the order, are to have effect for the purposes of this Chapter as if made by the order.

- (7) In this section “a learning and development order” means an order under section 39(1) (a).

#### **43 Welfare requirements**

- (1) The matters that may be dealt with by welfare regulations include—
- (a) the welfare of the children concerned;
  - (b) the arrangements for safeguarding the children concerned;
  - (c) suitability of persons to care for, or be in regular contact with, the children concerned;
  - (d) qualifications and training;
  - (e) the suitability of premises and equipment;
  - (f) the manner in which the early years provision is organised;
  - (g) procedures for dealing with complaints;
  - (h) the keeping of records;
  - (i) the provision of information.
- (2) Before making welfare regulations, the Secretary of State must consult the Chief Inspector and any other persons he considers appropriate.
- (3) Welfare regulations may provide—
- (a) that a person who without reasonable excuse fails to comply with any requirement of the regulations is guilty of an offence, and
  - (b) that a person guilty of the offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) In this section “welfare regulations” means regulations under section 39(1)(b).

#### **44 Instruments specifying learning and development or welfare requirements**

- (1) A relevant instrument may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the instrument and direct that those provisions are to have effect or, as the case may be, are to have effect as specified in the instrument.
- (2) The power to make a relevant instrument may be exercised so as to confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.
- (3) In particular, that power may be exercised so as to require or authorise the Chief Inspector, in exercising those functions, to have regard to factors, standards and other matters prescribed by or referred to in the instrument.
- (4) If a relevant instrument requires any person (other than the Chief Inspector) to have regard to or meet factors, standards and other matters prescribed by or referred to in the instrument, the instrument may also provide for any allegation that the person has failed to do so to be taken into account—
- (a) by the Chief Inspector in the exercise of his functions under this Part, or
  - (b) in any proceedings under this Part.

- (5) In this section “a relevant instrument” means an order under subsection (1)(a) of section 39 or regulations under subsection (1)(b) of that section.

#### **45 Procedure for making certain orders**

- (1) This section applies where the Secretary of State proposes to make an order under section 39(1)(a) specifying early learning goals or educational programmes.
- (2) The Secretary of State must give notice of the proposal—
- (a) to such bodies representing the interests of early years providers as the Secretary of State considers appropriate, and
  - (b) to any other persons with whom consultation appears to the Secretary of State to be desirable,
- and must give them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (3) When the Secretary of State has considered any evidence and representations submitted to him in pursuance of subsection (2), he must publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in early years provision—
- (a) a draft of the proposed order and any associated document, and
  - (b) a summary of the views expressed during the consultation.
- (4) The Secretary of State must allow a period of not less than one month beginning with the publication of the draft of the proposed order for the submission of any further evidence and representations as to the issues arising.
- (5) When the period so allowed has expired, the Secretary of State may make the order, with or without modifications.

#### **46 Power to enable exemptions to be conferred**

- (1) Regulations may enable the Secretary of State, in prescribed circumstances, to direct in respect of a particular early years provider or a particular description of early years providers, that to such extent as may be prescribed the learning and development requirements—
- (a) do not apply, or
  - (b) apply with such modifications as may be specified in the direction.
- (2) Regulations may enable an early years provider, in prescribed circumstances, to determine in respect of a particular young child that to such extent as may be prescribed the learning and development requirements—
- (a) do not apply, or
  - (b) apply with such modifications as may be specified in the determination.

#### **47 Independent schools**

- (1) In section 157 of the Education Act 2002 (c. 32) (independent school standards) after subsection (1) insert—

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“(1A) In relation to England, the standards do not apply to early years provision for pupils who have not attained the age of three (separate requirements as to such provision being imposed by or under Part 3 of the Childcare Act 2006).”

(2) For subsection (2) of that section substitute—

“(2) In this Chapter “independent school standards” means—

- (a) the standards for the time being prescribed under this section, and
- (b) in relation to early years provision in England for pupils who have attained the age of three, the Early Years Foundation Stage.”

(3) In section 171 of that Act (interpretation of Chapter 1 of Part 10), after the definition of “Chief Inspector” insert—

““early years provision”, in relation to England, has the meaning given by section 96(2) of the Childcare Act 2006;”.

#### **48 Amendments relating to curriculum**

Schedule 1 (which contains amendments relating to the preceding provisions of this Chapter, including amendments excluding or modifying the application to early years provision of provisions of Part 6 of the Education Act 2002 (c. 32)) has effect.

#### *Inspection*

#### **49 Inspections**

- (1) This section applies to early years provision in respect of which the early years provider is registered under this Chapter.
- (2) The Chief Inspector—
  - (a) must at such intervals as may be prescribed inspect early years provision to which this section applies,
  - (b) must inspect early years provision to which this section applies at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
  - (c) may inspect early years provision to which this section applies at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (3) Regulations may provide that in prescribed circumstances the Chief Inspector is not required to inspect early years provision at an interval prescribed for the purposes of subsection (2)(a).
- (4) Regulations may provide that the Chief Inspector is not required by subsection (2)(a) to inspect early years provision at an independent school if the early years provision is inspected in prescribed circumstances by a body approved by the Secretary of State for the purposes of this subsection.
- (5) A requirement made by the Secretary of State as mentioned in subsection (2)(b) may be imposed in relation to early years provision at particular premises or a class of premises.

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- (6) Regulations may make provision requiring the registered person to notify prescribed persons of the fact that early years provision is to be inspected under this section.
- (7) If the Chief Inspector so elects in the case of an inspection falling within paragraph (b) or (c) of subsection (2), that inspection is to be treated as if it were an inspection falling within paragraph (a) of that subsection.

## **50 Report of inspections**

- (1) After conducting an inspection under section 49, the Chief Inspector must make a report in writing on—
  - (a) the contribution of the early years provision to the well-being of the children for whom it is provided,
  - (b) the quality and standards of the early years provision,
  - (c) how far the early years provision meets the needs of the range of children for whom it is provided, and
  - (d) the quality of leadership and management in connection with the early years provision.
- (2) The Chief Inspector—
  - (a) may send a copy of the report to the Secretary of State and must do so without delay if the Secretary of State requests a copy,
  - (b) must ensure that a copy of the report is sent without delay to the registered person, 23
  - (c) must ensure that copies of the report, or such parts of it as he considers appropriate, are sent to such other persons as may be prescribed, and
  - (d) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.
- (3) Regulations may make provision—
  - (a) requiring the registered person to make a copy of any report sent to him under subsection (2)(b) available for inspection by prescribed persons;
  - (b) requiring the registered person, except in prescribed cases, to provide a copy of the report to prescribed persons;
  - (c) authorising the registered person in prescribed cases to charge a fee for providing a copy of the report.
- (4) Subsections (2) to (4) of section 11 of the Education Act 2005 (c. 18) (publication of inspection reports) apply in relation to the publication of a report under subsection (2) of this section as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 11.

### *Interpretation*

## **51 Interpretation of Chapter 2**

In this Chapter—

- “assessment arrangements” is to be read in accordance with section 41(2)(c);
- “early learning goals” is to be read in accordance with section 41(2)(a);
- “educational programmes” is to be read in accordance with section 41(2)(b);

“learning and development requirements” means requirements specified by order under section 39(1)(a);

“welfare requirements” means requirements specified by regulations under section 39(1)(b).

### CHAPTER 3

#### REGULATION OF LATER YEARS PROVISION FOR CHILDREN UNDER 8

##### *Requirements to register*

#### **52 Requirement to register: later years childminders for children under eight**

- (1) A person may not provide later years childminding in England for a child who has not attained the age of eight unless he is registered in Part A of the general childcare register as a childminder.
- (2) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to later years childminding.
- (3) The circumstances specified in an order under subsection (2) may relate to one or more of the following matters (among others)—
  - (a) the person providing the later years childminding;
  - (b) the child or children for whom it is provided;
  - (c) the nature of the later years childminding;
  - (d) the premises on which it is provided;
  - (e) the times during which it is provided;
  - (f) the arrangements under which it is provided.
- (4) If it appears to the Chief Inspector that a person has provided later years childminding in contravention of subsection (1), the Chief Inspector may serve a notice (“an enforcement notice”) on the person.
- (5) An enforcement notice may be served on a person—
  - (a) by delivering it to him, or
  - (b) by sending it by post.
- (6) An enforcement notice has effect until it is revoked by the Chief Inspector.
- (7) A person commits an offence if, at any time when an enforcement notice has effect in relation to him and without reasonable excuse, he provides later years childminding in contravention of subsection (1).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **53 Requirement to register: other later years providers for children under eight**

- (1) A person may not provide for a child who has not attained the age of eight—
  - (a) later years provision on premises in England which are not domestic premises,
  - or

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- (b) later years provision on domestic premises in England which would be later years childminding but for section 96(9),  
unless he is registered in Part A of the general childcare register in respect of the premises.
- (2) Subsection (1) does not apply in relation to later years provision for a child if—
  - (a) the provision is made at any of the following schools as part of the school’s activities—
    - (i) a maintained school,
    - (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools), or
    - (iii) an independent school,
  - (b) the provision is made by the proprietor of the school or a person employed to work at the school, and
  - (c) the child is a registered pupil at the school or, if the provision is made for more than one child who has not attained the age of eight, at least one of the children is a registered pupil at the school.
- (3) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to later years provision.
- (4) The circumstances specified in an order under subsection (3) may relate to one or more of the following matters (among others)—
  - (a) the person providing the later years provision;
  - (b) the child or children for whom it is provided;
  - (c) the nature of the later years provision;
  - (d) the premises on which it is provided;
  - (e) the times during which it is provided;
  - (f) the arrangements under which it is provided.
- (5) A person commits an offence if, without reasonable excuse, he provides later years provision in contravention of subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### *Process of registration*

### **54 Applications for registration: later years childminders**

- (1) A person who proposes to provide later years childminding in respect of which he is required by section 52(1) to be registered may make an application to the Chief Inspector for registration as a later years childminder.
- (2) An application under subsection (1) must—
  - (a) give any prescribed information about prescribed matters,
  - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
  - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if—

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- (a) the applicant is not disqualified from registration by regulations under section 75, and
  - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
- (a) the applicant;
  - (b) the premises on which the later years childminding is to be provided;
  - (c) the arrangements for later years childminding on those premises;
  - (d) any person who may be caring for children on those premises;
  - (e) any other person who may be on those premises.

## **55 Applications for registration: other later years providers**

- (1) A person who proposes to provide on any premises later years provision in respect of which he is required by section 53(1) to be registered may make an application to the Chief Inspector for registration as a later years provider in respect of the premises.
- (2) An application under subsection (1) must—
- (a) give any prescribed information about prescribed matters,
  - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
  - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if—
- (a) the applicant is not disqualified from registration by regulations under section 75, and
  - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
- (a) the applicant;
  - (b) the premises on which the later years provision is to be provided;
  - (c) the arrangements for later years provision on those premises;
  - (d) any person who may be caring for children on those premises;
  - (e) any other person who may be on those premises.

## **56 Entry on the register and certificates**

- (1) If an application under section 54(1) is granted, the Chief Inspector must—
- (a) register the applicant in Part A of the general childcare register as a later years childminder, and
  - (b) give the applicant a certificate of registration stating that he is so registered.

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- (2) If an application under section 55(1) is granted, the Chief Inspector must—
  - (a) register the applicant in Part A of the general childcare register as a later years provider other than a childminder, in respect of the premises in question, and
  - (b) give the applicant a certificate of registration stating that he is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the registered later years provider an amended certificate.
- (5) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the registered later years provider a copy, on payment by the provider of any prescribed fee.

## **57 Special procedure for registered early years providers**

- (1) If a person who is registered in the early years register as an early years childminder gives notice to the Chief Inspector that he proposes to provide later years childminding in respect of which he is required to be registered under this Chapter, the Chief Inspector must—
  - (a) register the person in Part A of the general childcare register as a later years childminder, and
  - (b) give the person a certificate of registration stating that he is so registered.
- (2) If a person who is registered in the early years register in respect of particular premises as an early years provider other than a childminder gives notice to the Chief Inspector that he proposes to provide later years provision in respect of which he is required to be registered under this Chapter on the same premises, the Chief Inspector must—
  - (a) register the person in Part A of the general childcare register as a later years provider other than a childminder, in respect of the premises, and
  - (b) give the person a certificate of registration stating that he is so registered.
- (3) Subsections (3) to (5) of section 56 apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of this section as they apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of that section.

### *Regulation*

## **58 Conditions on registration**

- (1) The Chief Inspector may impose such conditions as he thinks fit on the registration of a later years provider under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers the person in pursuance of section 56 or 57 or at any subsequent time.
- (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).

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- (4) The power conferred by subsection (1) includes power to impose conditions for the purpose of giving effect to regulations under section 59.
- (5) A later years provider registered under this Chapter commits an offence if, without reasonable excuse, he fails to comply with any condition imposed under subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **59 Regulations governing activities**

- (1) This section applies to—
  - (a) later years providers providing later years provision in respect of which they are registered under this Chapter, and
  - (b) later years providers providing later years provision in respect of which, but for section 53(2) (exemption for provision for children at certain schools), they would be required to be registered under this Chapter.
- (2) The Secretary of State may, after consulting the Chief Inspector and any other person he considers appropriate, make regulations governing the activities of later years providers to whom this section applies.
- (3) The regulations may deal with the following matters (among others)—
  - (a) the welfare of the children concerned;
  - (b) the arrangements for safeguarding the children concerned;
  - (c) suitability of persons to care for, or be in regular contact with, the children concerned;
  - (d) qualifications and training;
  - (e) the suitability of premises and equipment;
  - (f) the manner in which the later years provision is organised;
  - (g) procedures for dealing with complaints;
  - (h) the keeping of records;
  - (i) the provision of information.
- (4) The power to make regulations under this section may be exercised so as confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.
- (5) In particular, it may be so exercised so as to require the Chief Inspector, in exercising his functions under this Part, to have regard to factors, standards and other matters prescribed by or referred to in the regulations.
- (6) If the regulations require any person (other than the Chief Inspector) to have regard to or to 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 Chief Inspector in the exercise of his functions under this Part, or
  - (b) in any proceedings under this Part.
- (7) The regulations may provide—
  - (a) that a person who without reasonable excuse fails to comply with any requirement of the regulations is guilty of an offence, and

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- (b) that a person guilty of the offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Inspection*

## **60 Inspections**

- (1) This section applies to later years provision in respect of which the provider is registered under this Chapter.
- (2) The Chief Inspector—
  - (a) must inspect later years provision to which this section applies at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
  - (b) may inspect later years provision to which this section applies at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (3) A requirement made by the Secretary of State as mentioned in subsection (2)(a) may be imposed in relation to later years provision at particular premises or a class of premises.
- (4) Regulations may make provision requiring the registered person to notify prescribed persons of the fact that later years provision is to be inspected under this section.

## **61 Report of inspections**

- (1) After conducting an inspection under section 60, the Chief Inspector may make a report in writing on such of the following matters as he considers appropriate—
  - (a) the contribution of the later years provision to the well-being of the children for whom it is provided,
  - (b) the quality and standards of the later years provision,
  - (c) how far the later years provision meets the needs of the range of children for whom it is provided, and
  - (d) the quality of leadership and management in connection with the later years provision.
- (2) The Chief Inspector—
  - (a) may send a copy of the report to the Secretary of State and must do so without delay if the Secretary of State requests a copy,
  - (b) must ensure that a copy of the report is sent without delay to the registered person,
  - (c) must ensure that copies of the report, or such parts of it as he considers appropriate, are sent to such other persons as may be prescribed, and
  - (d) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.
- (3) Regulations may make provision—
  - (a) requiring the registered person to make a copy of any report sent to him under subsection (2)(b) available for inspection by prescribed persons;

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- (b) requiring the registered person, except in prescribed cases, to provide a copy of the report to prescribed persons;
  - (c) authorising the registered person in prescribed cases to charge a fee for providing a copy of the report.
- (4) Subsections (2) to (4) of section 11 of the Education Act 2005 (c. 18)(publication of inspection reports) apply in relation to the publication of a report under subsection (2) of this section as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 11.

## CHAPTER 4

### VOLUNTARY REGISTRATION

#### *Process of voluntary registration*

#### **62 Applications for registration on the general register: childminders**

- (1) A person who provides or proposes to provide in England—
- (a) later years childminding for a child who has attained the age of eight, or
  - (b) early years childminding or later years childminding for a child who has not attained that age but in respect of which the person is not required to be registered under Chapter 2 or 3,
- may make an application to the Chief Inspector for registration in Part B of the general childcare register as a childminder.
- (2) An application under subsection (1) must—
- (a) give any prescribed information about prescribed matters,
  - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
  - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if—
- (a) the applicant is not disqualified from registration by regulations under section 75, and
  - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
- (a) the applicant;
  - (b) the premises on which the childminding is being (or is to be) provided;
  - (c) the arrangements for childminding on those premises;
  - (d) any person who may be caring for children on those premises;
  - (e) any other person who may be on those premises.

### **63 Applications for registration on the general register: other childcare providers**

- (1) A person who provides or proposes to provide on premises in England—
  - (a) later years provision (other than later years childminding) for a child who has attained the age of eight, or
  - (b) early years provision or later years provision (other than early years or later years childminding) for a child who has not attained that age but in respect of which the person is not required to be registered under Chapter 2 or 3,may make an application to the Chief Inspector for registration in Part B of the general childcare register in respect of the premises.
- (2) An application under subsection (1) must—
  - (a) give any prescribed information about prescribed matters;
  - (b) give any other information which the Chief Inspector reasonably requires the applicant to give;
  - (c) be accompanied by any prescribed fee.
- (3) An application under subsection (1) may not be made in respect of provision for a child who has attained the age of three if—
  - (a) the provision is made at any of the following schools as part of the school's activities—
    - (i) a maintained school,
    - (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools), or
    - (iii) an independent school,
  - (b) the provision is made by the proprietor of the school or a person employed to work at the school, and
  - (c) the child is a registered pupil at the school or, if the provision is made for more than one child who has attained the age of three, at least one of the children is a registered pupil at the school.
- (4) The Chief Inspector must grant an application under subsection (1) if—
  - (a) the applicant is not disqualified from registration by regulations under section 75, and
  - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (5) The Chief Inspector must refuse any application under subsection (1) which subsection (4) does not require him to grant.
- (6) The prescribed requirements for registration may include requirements relating to—
  - (a) the applicant;
  - (b) the premises on which the childcare is being (or is to be) provided;
  - (c) the arrangements for childcare on those premises;
  - (d) any person who may be caring for children on those premises;
  - (e) any other person who may be on those premises.

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#### **64 Entry on the register and certificates**

- (1) If an application under section 62(1) is granted, the Chief Inspector must—
  - (a) register the applicant in Part B of the general childcare register as a childminder, and
  - (b) give the applicant a certificate of registration stating that he is so registered.
- (2) If an application under section 63(1) is granted, the Chief Inspector must—
  - (a) register the applicant in Part B of the general childcare register as a provider of childcare other than a childminder, in respect of the premises in question, and
  - (b) give the applicant a certificate of registration stating that he is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the registered person an amended certificate.
- (5) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the registered person a copy, on payment by the provider of any prescribed fee.

#### **65 Special procedure for persons already registered**

- (1) If a person who is registered as a childminder in the early years register or in Part A of the general childcare register gives notice to the Chief Inspector that he wishes to be registered in Part B of the general childcare register, the Chief Inspector must—
  - (a) register the person in Part B of the general childcare register as a childminder, and
  - (b) give the applicant a certificate of registration stating that he is so registered.
- (2) If a person who is registered (otherwise than as a childminder) in the early years register or in Part A of the general childcare register in respect of particular premises gives notice to the Chief Inspector that he wishes to be registered in Part B of the general childcare register in respect of the same premises, the Chief Inspector must—
  - (a) register the person in Part B of the general childcare register as a provider of childcare other than a childminder, in respect of the premises, and
  - (b) give the person a certificate of registration stating that he is so registered.
- (3) Subsections (3) to (5) of section 64 apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of this section as they apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of that section.

#### *Regulation of persons registering voluntarily*

#### **66 Conditions on registration**

- (1) The Chief Inspector may impose such conditions as he thinks fit on the registration of a person under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers a person in pursuance of section 64 or 65 or at any subsequent time.

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- (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
- (4) The power conferred by subsection (1) includes power to impose conditions for the purpose of giving effect to regulations under section 67.
- (5) A person registered under this Chapter commits an offence if, without reasonable excuse, he fails to comply with any condition imposed under subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **67 Regulations governing activities**

- (1) This section applies to persons providing early years provision or later years provision (or both) in respect of which they are registered under this Chapter.
- (2) The Secretary of State may, after consulting the Chief Inspector and any other person he considers appropriate, make regulations governing the activities of persons to whom this section applies.
- (3) The regulations may deal with the following matters (among others)—
  - (a) the welfare of the children concerned;
  - (b) the arrangements for safeguarding the children concerned;
  - (c) suitability of persons to care for, or be in regular contact with, the children concerned;
  - (d) qualifications and training;
  - (e) the suitability of premises and equipment;
  - (f) the manner in which the childcare provision is organised;
  - (g) procedures for dealing with complaints;
  - (h) the keeping of records;
  - (i) the provision of information.
- (4) The power to make regulations under this section may be exercised so as confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.
- (5) In particular, it may be so exercised so as to require the Chief Inspector, in exercising his functions under this Part, to have regard to factors, standards and other matters prescribed by or referred to in the regulations.
- (6) If the regulations require any person (other than the Chief Inspector) 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 Chief Inspector in the exercise of his functions under this Part, or
  - (b) in any proceedings under this Part.

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## CHAPTER 5

### COMMON PROVISIONS

#### *Cancellation of registration etc.*

#### **68 Cancellation of registration**

- (1) The Chief Inspector must cancel the registration of a person registered under Chapter 2, 3 or 4 if it appears to him that the person has become disqualified from registration by regulations under section 75.
- (2) The Chief Inspector may cancel the registration of a person registered under Chapter 2, 3 or 4 if it appears to him—
  - (a) that the prescribed requirements for registration which apply in relation to the person's registration under that Chapter have ceased, or will cease, to be satisfied,
  - (b) that the person has failed to comply with a condition imposed on his registration under that Chapter,
  - (c) that he has failed to comply with a requirement imposed on him by regulations under that Chapter,
  - (d) in the case of a person registered under Chapter 2, that he has failed to comply with section 40(2)(a), or
  - (e) in any case, that he has failed to pay a prescribed fee.
- (3) The Chief Inspector may cancel the registration of a person registered as an early years childminder under Chapter 2 if it appears to him that the person has not provided early years childminding for a period of more than three years during which he was registered.
- (4) The Chief Inspector may cancel the registration of a person registered as a later years childminder under Chapter 3 if it appears to him that the person has not provided later years childminding for a period of more than three years during which he was registered.
- (5) The Chief Inspector may cancel the registration of a person registered as a childminder under Chapter 4 if it appears to him that the person has provided neither early years childminding nor later years childminding for a period of more than three years during which he was registered.
- (6) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a person registered under Chapter 2, 3 or 4, his registration may 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.

#### **69 Suspension of registration**

- (1) Regulations may provide for the registration of a person registered under Chapter 2, 3 or 4 to be suspended for a prescribed period in prescribed circumstances.

- (2) Regulations under subsection (1) must include provision conferring on the registered person a right of appeal to the Tribunal against suspension.
- (3) A person registered as an early years childminder under Chapter 2 may not provide early years childminding in England at any time when his registration under that Chapter is suspended in accordance with regulations under this section.
- (4) A person registered as a later years childminder under Chapter 3 may not provide later years childminding in England, for a child who has not attained the age of eight, at any time when his registration under that Chapter is suspended in accordance with regulations under this section.
- (5) Subsection (3) or (4) does not apply in relation to early years childminding or (as the case may be) later years childminding which the person may provide without being registered under Chapter 2 or 3.
- (6) A person registered as an early years provider (other than an early years childminder) under Chapter 2 may not provide early years provision on premises in England at any time when his registration under that Chapter in respect of the premises is suspended in accordance with regulations under this section.
- (7) A person registered as a later years provider (other than a later years childminder) under Chapter 3 may not provide later years provision on premises in England, for a child who has not attained the age of eight, at any time when his registration under that Chapter in respect of the premises is suspended in accordance with regulations under this section.
- (8) Subsection (6) or (7) does not apply in relation to early years provision or (as the case may be) later years provision which the person may provide without being registered under Chapter 2 or 3.
- (9) A person commits an offence if, without reasonable excuse, he contravenes subsection (3), (4), (6) or (7).
- (10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) In this Part, “the Tribunal” means the Tribunal established by section 9 of the Protection of Children Act 1999 (c. 14).

## **70 Voluntary removal from register**

- (1) A person registered under any of Chapters 2 to 4 may give notice to the Chief Inspector that he wishes to be removed from the early years register or (as the case may be) from Part A or B of the general childcare register.
- (2) If a person gives notice under subsection (1) the Chief Inspector must remove him from the early years register or (as the case may be) from the relevant Part of the general childcare register.
- (3) The Chief Inspector must not act under subsection (2) if—
  - (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(2)) of his intention to cancel his registration, and
  - (b) the Chief Inspector has not decided that he no longer intends to take that step.
- (4) The Chief Inspector must not act under subsection (2) if—

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- (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(7)) of his decision to cancel his registration, and
  - (b) the time within which an appeal under section 74 may be brought has not expired or, if such an appeal has been brought, it has not been determined.
- (5) Subsections (3) and (4) do not apply if the person is seeking removal from Part B of the general childcare register.

## **71 Termination of voluntary registration on expiry of prescribed period**

Regulations may make provision requiring the Chief Inspector to remove a registered person from Part B of the general childcare register on the expiry of a prescribed period of time from the date of his registration.

*Cancellation etc. in an emergency*

## **72 Protection of children in an emergency**

- (1) In relation to a person registered under Chapter 2, 3 or 4, the Chief Inspector may apply to a justice of the peace for an order—
- (a) cancelling the person’s registration;
  - (b) varying or removing a condition to which his registration is subject;
  - (c) imposing a new condition on his registration.
- (2) If it appears to the justice that a child for whom early years provision or later years provision is being or may be provided by that person is suffering or is likely to suffer significant harm, the justice may make the order.
- (3) An application under subsection (1) may be made without notice.
- (4) An order under subsection (2)—
- (a) must be made in writing, and
  - (b) has effect from the time when it is made.
- (5) If an order is made under subsection (2), the Chief Inspector must 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 in support of the application for the order, and
  - (c) notice of any right of appeal conferred by section 74.
- (6) The documents mentioned in subsection (5) may be served on the registered person by—
- (a) delivering them to him, or
  - (b) sending them by post.
- (7) For the purposes of this section, “harm” has the same meaning as in the Children Act 1989 (c. 41) and the question of whether harm is significant is to be determined in accordance with section 31(10) of that Act.

*Registration – procedural safeguards*

**73 Procedure for taking certain steps**

- (1) This section applies if the Chief Inspector proposes to take any of the following steps under this Part—
  - (a) refuse an application for registration;
  - (b) impose a new condition on a person’s registration;
  - (c) vary or remove any condition imposed on a person’s registration;
  - (d) refuse to grant an application for the variation or removal of any such condition;
  - (e) cancel a person’s registration.
- (2) The Chief Inspector must give to the applicant or (as the case may be) the registered person notice of his intention to take the step in question.
- (3) The notice must—
  - (a) give the Chief Inspector’s reasons for proposing to take the step, and
  - (b) inform the person concerned of his rights under this section.
- (4) The Chief Inspector may not take the step until the end of the period of 14 days beginning with the day on which he gives notice under subsection (2) unless the applicant or (as the case may be) the registered person notifies the Chief Inspector that he does not wish to object to the step being taken.
- (5) If the recipient of a notice under subsection (2) (“the recipient”) gives notice to the Chief Inspector that he wishes to object to the step being taken, the Chief Inspector must give him an opportunity to object before deciding whether to take the step.
- (6) An objection made in pursuance of subsection (5) may be made orally or in writing and in either case may be made by the recipient or his representative.
- (7) If the Chief Inspector decides to take the step, he must give the recipient notice of his decision (whether or not the recipient informed the Chief Inspector that he wished to object to the step being taken).
- (8) The taking of a step mentioned in paragraph (b), (c) or (e) of subsection (1) does not have effect until—
  - (a) the expiry of the time within which an appeal may be brought under section 74, or
  - (b) if such an appeal is brought, the time when the appeal is determined (and the taking of the step is confirmed).
- (9) Subsection (8) does not prevent such a step having effect before the expiry of the time within which an appeal may be brought if the person concerned notifies the Chief Inspector that he does not intend to appeal.
- (10) If the Chief Inspector gives notice to an applicant for registration under Chapter 2 or 3 that he intends to refuse his application, the application may not be withdrawn without the consent of the Chief Inspector.
- (11) In this section and in section 74, “a new condition” means a condition imposed otherwise than at the time of the person’s registration.

## 74 Appeals

- (1) An applicant for registration or (as the case may be) a registered person may appeal to the Tribunal against the taking of any of the following steps by the Chief Inspector under this Part—
  - (a) the refusal of his application for registration;
  - (b) the imposition of a new condition on his registration;
  - (c) the variation or removal of any condition imposed on his registration;
  - (d) the refusal of an application to vary or remove any such condition;
  - (e) the cancellation of his registration.
- (2) An applicant for registration or (as the case may be) a registered person may also appeal to the Tribunal against any other determination made by the Chief Inspector under this Part which is of a prescribed description.
- (3) A person against whom an order is made under section 72(2) may appeal to the Tribunal against the making of the order.
- (4) On an appeal the Tribunal must either—
  - (a) confirm the taking of the step, the making of the other determination or the making of the order (as the case may be), or
  - (b) direct that it shall not have, or shall cease to have, effect.
- (5) Unless the Tribunal has confirmed the taking of a step mentioned in subsection (1)(a) or (e) or the making of an order under section 72(2) cancelling a person's registration, the Tribunal may also do either or both of the following—
  - (a) impose conditions on the registration of the person concerned;
  - (b) vary or remove any condition previously imposed on his registration.

### *Disqualification from registration*

## 75 Disqualification from registration

- (1) In this section, “registration” means registration under Chapters 2, 3 and 4.
- (2) Regulations may provide for a person to be disqualified from registration.
- (3) The regulations may, in particular, provide for a person to be disqualified from registration if—
  - (a) he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14);
  - (b) he is subject to a direction under section 142 of the Education Act 2002 (c. 32) on the grounds that he is unsuitable to work with children or on grounds relating to his health;
  - (c) an order of a prescribed kind has been made at any time with respect to him;
  - (d) an order of a prescribed kind has been made at any time with respect to a child who has been in his care;
  - (e) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;
  - (f) he has at any time been refused registration under Chapter 2, 3 or 4 of this Part of this Act or under Part 10 or Part 10A of the Children Act 1989 (c. 41) or any prescribed enactment, or had any such registration cancelled;

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- (g) he has been convicted of an offence of a prescribed kind or has been discharged absolutely or conditionally for such an offence;
  - (h) he has been given a caution in respect of an offence of a prescribed kind;
  - (i) he has at any time been disqualified from fostering a child privately (within the meaning of the Children Act 1989 (c. 41));
  - (j) a prohibition has been imposed on him at any time under section 69 of the Children Act 1989, section 10 of the Foster Children (Scotland) Act 1984 (c. 56) or any prescribed enactment;
  - (k) his rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.
- (4) Regulations may provide for a person to be disqualified from registration if—
- (a) he lives in the same household as another person who is disqualified from registration, or
  - (b) he lives in a household in which any such person is employed.
- (5) Regulations under subsection (2) or (4) may provide for a person not to be disqualified from registration (and in particular may provide for a person not to be disqualified from registration for the purposes of section 76) by reason of any fact which would otherwise cause him to be disqualified if—
- (a) he has disclosed the fact to the Chief Inspector, and
  - (b) the Chief Inspector has consented in writing to the person's not being disqualified from registration and has not withdrawn his consent.
- (6) In this section—
- “caution” includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998 (c. 37);
  - “enactment” means any enactment having effect at any time in any part of the United Kingdom.
- (7) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of this section.

## **76 Consequences of disqualification**

- (1) This section applies to—
- (a) early years provision in respect of which the provider is required by section 33(1) or 34(1) to be registered,
  - (b) early years provision in respect of which, but for section 34(2), the provider would be required to be registered,
  - (c) later years provision in respect of which the provider is required by section 52(1) or 53(1) to be registered, and
  - (d) later years provision in respect of which, but for section 53(2), the provider would be required to be registered.
- (2) A person who is disqualified from registration by regulations under section 75 must not—
- (a) provide early years or later years provision to which this section applies, or
  - (b) be directly concerned in the management of early years or later years provision to which this section applies.

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- (3) No person may employ, in connection with the provision of early years or later years provision to which this section applies, a person who is disqualified from registration by regulations under section 75.
- (4) A person who contravenes subsection (2) or (3) commits an offence.
- (5) A person who contravenes subsection (2) is not guilty of an offence under subsection (4) if—
  - (a) he is disqualified from registration by virtue only of regulations under section 75(4), and
  - (b) he proves that he did not know, and had no reasonable grounds for believing, that he was living—
    - (i) in the same household as a person who was disqualified from registration, or
    - (ii) in a household in which such a person was employed.
- (6) A person who contravenes subsection (3) is not guilty of an offence under subsection (4) if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified from registration.
- (7) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 5 on the standard scale, or to both.
- (8) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference in subsection (7) to 51 weeks is to be read as a reference to 6 months.

#### *Rights of entry*

### **77 Powers of entry**

- (1) A person authorised for the purposes of this subsection by the Chief Inspector may at any reasonable time enter any premises in England if he has reasonable cause to believe that early years provision or later years provision is being provided on the premises in breach of section 33(1), 34(1), 52(1) or 53(1).
- (2) A person authorised for the purposes of this subsection by the Chief Inspector may at any reasonable time enter any premises in England on which early years provision or later years provision in respect of which a person is registered under this Part is being provided—
  - (a) for the purpose of conducting an inspection under section 49 or 60, or
  - (b) for the purpose of determining whether any conditions or requirements imposed by or under this Part are being complied with.
- (3) Authorisation under subsection (1) or (2)—
  - (a) may be given for a particular occasion or period;
  - (b) may be given subject to conditions.
- (4) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b))—
  - (a) inspect the premises;

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- (b) inspect, and take copies of—
    - (i) any records kept by the person providing the childcare, and
    - (ii) any other documents containing information relating to that 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) take measurements and photographs or make recordings;
  - (e) inspect any children being cared for there, and the arrangements made for their welfare;
  - (f) interview in private the childcare provider;
  - (g) interview in private any person caring for children, or living or working, on the premises who consents to be interviewed.
- (5) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b)) 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.
- (6) Section 58 of the Education Act 2005 (c. 18) (inspection of computer records for the purposes of Part 1 of that Act) applies for the purposes of this section as it applies for the purposes of Part 1 of that Act.
- (7) A person exercising any power conferred by this section must, if so required, produce a duly authenticated document showing his authority to do so.
- (8) A person commits an offence if he intentionally obstructs a person exercising any power under this section.
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (10) In this section, “documents” and “records” each include information recorded in any form.

## **78 Requirement for consent to entry**

- (1) This section applies where a person (“the authorised person”) proposes to enter domestic premises in pursuance of—
- (a) provision made by virtue of section 42(1) and (4) in a learning and development order specifying assessment arrangements in relation to early years provision, or
  - (b) a power of entry conferred by section 77(2).
- (2) If the authorised person has reasonable cause to believe—
- (a) that the premises are not the home of the person providing the early years or later years provision, or
  - (b) that the premises are the home of a child for whom the early years or later years provision is provided,
- the authorised person may not enter the premises without the consent of an adult who is an occupier of the premises.

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- (3) Subsection (2) does not prevent the imposition under section 38, 58 or 66 of a condition requiring a person registered under Chapter 2, 3 or 4 to secure that the occupier of any premises on which the registered person provides early years provision or later years provision gives any consent required by that subsection.
- (4) In this section—  
     “a learning and development order” means an order under section 39(1)(a);  
     “occupier” does not include the person providing the early years or later years provision.

## **79 Power of constable to assist in exercise of powers of entry**

- (1) A person authorised for the purpose of subsection (1) or (2) of section 77 may apply to a court for a warrant under this section.
- (2) If it appears to the court that the authorised person—  
     (a) has attempted to exercise a power conferred on him by section 77 but has been prevented from doing so, or  
     (b) is likely to be prevented from exercising any such power,  
 the court may issue a warrant authorising any constable to assist that person in the exercise of the power, using reasonable force if necessary.
- (3) A warrant issued under this section must be addressed to, and executed by, a constable.
- (4) Schedule 11 to the Children Act 1989 (c. 41) (jurisdiction of courts) applies in relation to proceedings under this section as if they were proceedings under that Act.
- (5) In this section, “court” means the High Court, a county court or a magistrates' court but this is subject to any provision which may be made (by virtue of subsection (4)) by or under Schedule 11 to the Children Act 1989.

### *Reports and information*

## **80 Combined reports**

- (1) This section applies if, following inspections under this Part of early years or later years provision, the Chief Inspector—  
     (a) is required to make more than one report under section 50(1) or determines to make more than one report under section 61(1), or  
     (b) is required to make one or more reports under section 50(1) and determines to make one or more reports under section 61(1).
- (2) If the Chief Inspector considers it appropriate, he may—  
     (a) combine any two or more of those reports in a single document (“a combined report”), and  
     (b) to such extent as he considers appropriate, combine the substantive reports.
- (3) If the Chief Inspector combines reports under this section, the powers and duties which apply in relation to each report by virtue of section 50(2) or 61(2) are to be read as applying instead to the combined report.

## **81 Information to be included in annual reports**

- (1) The annual reports of the Chief Inspector required by section 3(a) of the Education Act 2005 (c. 18) to be made to the Secretary of State must include an account of the exercise of the Chief Inspector's functions under this Part in relation to early years provision and later years provision.
- (2) The power conferred on the Chief Inspector by section 3(b) of that Act includes a power to make reports with respect to matters which fall within the scope of his functions by virtue of the provisions of this Part relating to early years provision and later years provision.

## **82 Supply of information to Chief Inspector**

The Chief Inspector may at any time require any person registered under this Part to provide him with any information connected with the person's activities as an early years provider or later years provider which the Chief Inspector considers it necessary to have for the purposes of his functions under this Part.

## **83 Supply of information to HMRC and local authorities**

- (1) The Chief Inspector must provide prescribed information to Her Majesty's Revenue and Customs, and the relevant local authority, if he takes any of the following steps under this Part—
  - (a) grants a person's application for registration;
  - (b) gives notice of his intention to cancel a person's registration;
  - (c) cancels a person's registration;
  - (d) suspends a person's registration;
  - (e) removes a person from the register at that person's request.
- (2) The Chief Inspector must also provide prescribed information to Her Majesty's Revenue and Customs, and the relevant local authority, if an order is made under section 72(2).
- (3) The information which may be prescribed for the purposes of this section is—
  - (a) in the case of information to be provided to Her Majesty's Revenue and Customs, information which Her Majesty's Revenue and Customs may require for the purposes of their functions in relation to tax credits;
  - (b) in the case of information to be provided to the relevant local authority, information which would assist the local authority in the discharge of their functions under section 12.
- (4) In this section, "the relevant local authority" means the English local authority for the area in which the person provides (or, as the case may be, has provided) the early years provision or later years provision in respect of which he is (or was) registered.

## **84 Disclosure of information for certain purposes**

- (1) The Chief Inspector may arrange for prescribed information held by him in relation to persons registered under this Part to be made available for the purpose of—
  - (a) assisting parents or prospective parents in choosing an early years or later years provider, or

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- (b) protecting children from harm or neglect.
- (2) The information may be made available in such manner and to such persons as the Chief Inspector considers appropriate.
- (3) Regulations may require the Chief Inspector to provide prescribed information held by him in relation to persons registered under this Part to prescribed persons for either of the purposes mentioned in subsection (1).

### *Offences and criminal proceedings*

#### **85 Offence of making false or misleading statement**

- (1) A person commits an offence if, in an application for registration under any of Chapters 2 to 4, he knowingly makes a statement which is false or misleading in a material particular.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **86 Time limit for proceedings**

- (1) 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 comes to his knowledge.
- (2) No such proceedings may be brought by virtue of subsection (1) more than three years after the commission of the offence.

#### **87 Offences by bodies corporate**

- (1) This section applies where any offence under this Part is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

#### **88 Unincorporated associations**

- (1) Proceedings for an offence under this Part which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in the name of any of its members).
- (2) For the purpose of any such proceedings, rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (3) In proceedings for an offence under this Part brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure) apply as they do in relation to a body corporate.

- (4) A fine imposed on an unincorporated association on its conviction of an offence under this Part is to be paid out of the funds of the association.
- (5) If an offence under this Part by an unincorporated association is shown—
  - (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
  - (b) to be attributable to any neglect on the part of such an officer or member, the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

### *Miscellaneous*

## **89 Fees**

- (1) Regulations may require persons registered under any of Chapters 2 to 4 to pay to the Chief Inspector at or by prescribed times fees of the prescribed amounts in respect of the discharge by the Chief Inspector of his functions under this Part.
- (2) Regulations under subsection (1) may prescribe circumstances in which—
  - (a) the amount of a fee payable under the regulations may be varied in accordance with the regulations;
  - (b) a fee payable under the regulations may be waived.

## **90 Cases where consent to disclosure withheld**

- (1) This section applies where the Chief Inspector—
  - (a) is determining, for the purpose of deciding whether to grant an application for registration under Chapter 2, 3 or 4, whether the prescribed requirements for registration are satisfied and are likely to be continued to be satisfied, or
  - (b) is determining, for the purpose of deciding whether to cancel the registration of any person under section 68(2)(a), whether the prescribed requirements for registration have ceased, or will cease, to be satisfied.
- (2) The Chief Inspector may, if regulations so provide and he thinks it appropriate to do so, treat the prescribed requirements for registration as not being satisfied or (as the case may be) as having ceased to be satisfied if for the purpose of his determination—
  - (a) the Chief Inspector has requested a person (“A”) to consent to the disclosure by another person (“B”) to the Chief Inspector of information which—
    - (i) relates to A,
    - (ii) is held by B, and
    - (iii) is of a prescribed description, and
  - (b) A does not give his consent or withdraws his consent after giving it.

## **91 Co-operation between authorities**

- (1) If it appears to the Chief Inspector that any English local authority could, by taking any specified action, help in the exercise of any of his functions under this Part, he may request the help of the authority, specifying the action in question.

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- (2) An authority whose help is requested must comply with the request if it is compatible with their own statutory and other duties and does not unduly prejudice the discharge of any of their functions.

## **92 Combined certificates of registration**

- (1) This section applies if the Chief Inspector is required by virtue of this Part to issue more than one certificate of registration to a person.
- (2) If the Chief Inspector considers it appropriate, he may combine any two or more of those certificates in a single certificate (a combined certificate).
- (3) A combined certificate of registration must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a combined certificate of registration, the Chief Inspector must give the registered person an amended combined certificate.
- (5) If the Chief Inspector is satisfied that a combined certificate of registration has been lost or destroyed, the Chief Inspector must give the registered person a copy, on payment by that person of any prescribed fee.

## **93 Notices**

- (1) This section applies in relation to notices required or authorised to be given to any person by any of the following—
- (a) section 57(1) and (2);
  - (b) section 65(1) and (2);
  - (c) section 70(1);
  - (d) section 73(2), (4), (5), (7) and (9).
- (2) The notice may be given to the person in question—
- (a) by delivering it to him,
  - (b) by sending it by post, or
  - (c) subject to subsection (3), by transmitting it electronically.
- (3) If the notice is transmitted electronically, it is to be treated as given only if the requirements of subsection (4) or (5) are met.
- (4) If the person required or authorised to give the notice is the Chief Inspector—
- (a) the person to whom the notice is required or authorised to be given must have indicated to the Chief Inspector his willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose, and
  - (b) the notice must be sent to the address provided by him.
- (5) If the person required or authorised to give the notice is not the Chief Inspector, the notice must be transmitted in such manner as the Chief Inspector may require.
- (6) An indication given for the purposes of subsection (4) may be given generally for the purposes of notices required or authorised to be given by the Chief Inspector under this Part or may be limited to notices of a particular description.

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- (7) A requirement imposed by the Chief Inspector under subsection (5) must be published in such manner as the Chief Inspector thinks appropriate for the purpose of bringing it to the attention of persons who are likely to be affected by it.
- (8) In relation to the taking of a step mentioned in subsection (1)(b) or (c) of section 73, notification authorised to be given to the Chief Inspector under subsection (4) or (9) of that section may be given orally to a person authorised by the Chief Inspector to receive such notification (as well as by any of the methods mentioned in subsection (2)).

#### **94 Power to amend Part 3: applications in respect of multiple premises**

The Secretary of State may by order—

- (a) amend this Part so as to enable an application for registration under section 36(1), 55(1) or 63(1) to be made in respect of more than one set of premises, and
- (b) make such further amendments of this Part as appear to him to be necessary or expedient in consequence of the amendments made by virtue of paragraph (a).

#### **95 Certain institutions not to be regarded as schools**

- (1) Section 4 of the Education Act 1996 (c. 56) (schools: general) is amended as follows.
- (2) In subsection (1) after “In this Act” insert “(subject to subsection (1A))”.
- (3) After subsection (1) insert—
  - “(1A) An institution which—
    - (a) provides only early years provision (as defined by section 96(2) of the Childcare Act 2006), and
    - (b) is not a maintained nursery school, is not a school.”

#### *Interpretation*

#### **96 Meaning of early years and later years provision etc.**

- (1) This section applies for the purposes of this Part.
- (2) “Early years provision” means the provision of childcare for a young child.
- (3) “Early years provider” means a person who provides early years provision.
- (4) Subject to subsection (5), “early years childminding” means early years provision on domestic premises for reward (and “early years childminder” is to be read accordingly).
- (5) Early years provision on domestic premises for reward is not early years childminding if at any time the number of persons providing the early years provision on the premises or assisting with the provision exceeds three.
- (6) “Later years provision”, in relation to a child, means the provision of childcare at any time during the period—

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(a) beginning with the 1st September next following the date on which he attains the age of five, and

(b) ending with such day as may be prescribed.

(7) “Later years provider” means a person who provides later years provision.

(8) Subject to subsection (9), “later years childminding” means later years provision on domestic premises for reward (and “later years childminder” is to be read accordingly).

(9) Later years provision on domestic premises for reward is not later years childminding if at any time the number of persons providing the later years provision on the premises or assisting with the provision exceeds three.

## **97 Employees not to be regarded as providing childcare**

(1) This section applies for the purposes of this Part.

(2) Where an individual (“the employee”) is employed to care for a child by a person who provides early years provision or later years provision for the child, the employee is not to be regarded as providing early years provision or (as the case may be) later years provision by virtue of anything done by him in the course of that employment.

## **98 Interpretation of Part 3**

(1) In this Part—

“the Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England;

“childcare” has the meaning given by section 18;

“domestic premises” means premises which are used wholly or mainly as a private dwelling;

“early years provision” has the meaning given by section 96(2);

“early years provider” has the meaning given by section 96(3);

“early years childminding” and “early years childminder” have the meanings given by section 96(4);

“later years provision” has the meaning given by section 96(6);

“later years provider” has the meaning given by section 96(7);

“later years childminding” and “later years childminder” have the meanings given by section 96(8);

“premises” includes any area and any vehicle;

“prescribed” means prescribed by regulations;

“proprietor”, in relation to a school, has the same meaning as in the Education Act 1996 (c. 56);

“regulations” means regulations made by the Secretary of State;

“the Tribunal” has the meaning given by section 69(11);

“young child” has the meaning given by section 19.

(2) For the purposes of section 7 of the Interpretation Act 1978 (c. 30) (references to service by post), a notice or order which may by virtue of any provision of this Part be sent by post to an applicant for registration or to a registered person is to be treated as properly addressed if it is addressed to him at the address notified by him to the Chief Inspector as the address to which correspondence to him should be sent.