

**EXPLANATORY MEMORANDUM TO**  
**THE CHILDREN (PERFORMANCES AND ACTIVITIES) (ENGLAND)**  
**REGULATIONS 2014**

**2014 No. 3309**

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 These regulations set out the details of the regulatory regime which applies to children taking part in:

- public performances and paid sport and modelling (activities) in Great Britain, for which a licence must be obtained from a local authority in England;
- certain public performances in Great Britain that are exempt from the requirement to obtain such a licence; and
- performances and activities for profit taking place abroad pursuant to a licence granted by a magistrate in England.

2.2 They replace the Children (Performances) Regulations 1968. The main changes are to:

- remove the requirement for a medical certificate to be provided before a child performance licence can be issued;
- lift unnecessary restrictions on the different types of performance a child can take part in on one day;
- remove unhelpful differences between the rules for performances which are not recorded or broadcast and those which are; and
- otherwise update by drafting regulations using modern language and clearer structure, to make the provisions easier to read and follow.

**3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments**

None.

**4. Legislative Context**

4.1 The legislative framework that governs children taking part in performances and activities is contained within Part II of the Children and Young Persons Act 1933 and Part II of the Children and Young Persons Act 1963. Under these Acts, the Secretary of State has powers to make regulations which set out details of this framework.

4.2 During the passage of the Children and Families Act 2014 the government gave a commitment to make some changes to the child performance and activities framework. Section 90 of that Act has removed the restriction, in England and Wales, set out in section 38 of the Children and Young Persons Act 1963, on the types of performance that children under 14 can be licensed to take part in. These regulations give effect to the other legislative changes that the government committed to make in England, as set out in paragraph 2 above.

## **5. Territorial Extent and Application**

These regulations apply to England.

## **6. European Convention on Human Rights**

As the regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 In summary, people who plan to put on certain performances involving children, or to engage them in paid sport or modelling, in England, Wales and Scotland are required to apply for a licence from either the child's home local authority or, where the child is not from Great Britain, the local authority in whose area the applicant resides or has his / her place of business. There are certain exemptions that may be available in respect of performances in England, Wales and Scotland. There are a number of requirements and rules, set out in legislation, which must be followed by applicants and local authorities in the course of the licensing process. In addition, there are separate requirements in respect of taking a child abroad to take part in a performance or activity for profit, for which a licence must be obtained from a magistrate.

7.2 The current legal framework has generally proved effective in its purpose of ensuring that child performers are kept safe. Most of it has, however, been in place since the 1960s (and in fact the basic framework in respect of performances abroad has been in place since the 1930s), and some aspects are now outdated and do not always work in the best interests of children. These regulations lift the unnecessary restrictions on when children can take part in certain types of performance and activities in Great Britain, whilst keeping essential safeguards in place.

7.3 For example, the Children (Performances) Regulations 1968 set out the latest times that a child can be at the place of performance. These are much more restrictive for performances that are broadcast or recorded than those that are not. The upper limit for broadcast performances is 7pm for children aged 9 and over, and 4.30pm for those under the age of 9. These limits are unduly restrictive, and have led to children being unable to be licensed to take part in evening performances simply because they are being filmed or broadcast. We see no justification for these restrictions and differences, provided overall

safeguards about the number of hours spent performing and the breaks children must have are in force.

7.4 At the same time, the intention is to modernise the language of the requirements that are to remain largely unchanged in terms of content, to make understanding and complying with the requirements simpler for local authorities and those involved in the production of such performances and activities.

## **8. Consultation outcome**

8.1 From 24th May to 3rd August 2012 the Department for Education held a public consultation on proposals for wholesale reform of the child performance licensing system. The responses were divided on many proposals, particularly where they may have affected the balance between increasing opportunities for children and protecting them from undue risk, and we could not be confident that those proposals got that balance right. The government does not intend to take any action which would reduce important protections for children. One proposal in that consultation, however, to remove the requirement that a medical certificate be provided in order for a licence to be issued, was supported by 100% of respondents. Given the clear support in favour of this measure we have not consulted on it again and the requirement is being removed through these regulations. The 2012 consultation is available on the Department for Education's website at [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations), and government's response to it is available [here](#)<sup>1</sup>.

8.2 From 23<sup>rd</sup> June to 29<sup>th</sup> August 2014, the Department for Education held a further public consultation concerning the limits on when children can take part in performances and the breaks they must have. The consultation proposed to replace the complex rules, which differ between broadcast and non-broadcast performances, with a streamlined set of rules that apply equally to both broadcast and non-broadcast performances. More than half of the 187 respondents to the formal consultation were in favour of all the proposals.

8.3 The proposal that received the least support, with only 51% of respondents in favour, was to set a maximum limit of 6 consecutive days that a child can take part in any type of performance and rehearsals. This is the current limit for performances that are not broadcast or recorded, so the proposal would extend the same limit that currently applies to non-broadcast performances to those that are broadcast.

8.4 Those against the proposal thought that the limit should be reduced to 5 days in a row, as this is the typical pattern of employment for most adults in other types of work. To reduce the existing limit would impose a new restriction on non-broadcast performances. We do not intend to introduce new restrictions, so propose to retain the existing limit of 6 days as the maximum that can be permitted by law, and extend that to all types of performance. This is a maximum, and in assessing whether to allow it in any particular case the local authority issuing the licence might consider factors such as whether those days are long or short, or whether the performance is on location. They

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<sup>1</sup> <http://media.education.gov.uk/assets/files/pdf/c/consultation%20response%20final.pdf>

have discretion to place conditions on the licence as they deem necessary to ensure that the child is not over-worked and has sufficient breaks.

The 2014 consultation and the government's response to it are available on the GOV.UK's website at [www.gov.uk/government/consultations](http://www.gov.uk/government/consultations).

8.5 The department sought the views of children who take part in performances, as the proposals directly impact on them. Over 400 children engaged in the consultation exercise, through a questionnaire and interactive workshops. We sought their opinions rather than quantitative responses. Further detail will be provided in the report from the consultation, which will be published shortly. Generally, however, children felt it important that there be clear requirements for limits on the times they can perform and the breaks, especially for meals, that they must have. All of them felt that taking part in performances could enrich their education and develop their skills and confidence, but it should not detract from their schooling or attainment of qualifications. We are confident that the changes that will be effected through these regulations will benefit child performers whilst maintaining the protections that they want.

## **9. Guidance**

9.1 The regulations are self-explanatory, but the Department for Education will produce short non-statutory guidance to clarify the changes in the legislation. This will replace the guidance to the Children (Performances) Regulations 1968 that was issued by the Home Office in 1968. It will cover the removal of the restriction on the types of performance that children under the age of 14 can take part in, which was effected by section 90 of the Children and Families Act 2014, as well as these regulations.

9.2 The department will ensure the changes are communicated to all local authorities and to sector interests through relevant media and regional events in the new year. At the same time, we anticipate that sector led best practice guidance will be published, which will encourage greater consistency of approach to the administration of the licensing system and give examples of best practice for keeping child performers safe.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is to simplify and make it easier for them to understand the requirements designed to safeguard child performers, whilst lifting unnecessary restrictions on when children can perform.

10.2 The impact on the public sector is to simplify and clarify the regulatory framework which they have a responsibility to administer.

10.3 An impact assessment has not been prepared for these regulations.

**11. Regulating small business**

The legislation may apply to small businesses where they are engaging children in performances. As the impact is to lift unnecessary restrictions and clarify the requirements for safeguarding children, the impact on small business is deemed to be beneficial.

**12. Monitoring & review**

There are no plans for a formal review, but the impact of the changes will be monitored through feedback from the National Network for Children in Employment and Entertainment, and through 'keep in touch' arrangements with sector interests who have helped in the development of the proposals.

**13. Contact**

Paula Townsend at the Department for Education can answer any queries regarding the regulations Tel: 0114 2742430 or email: [paula.townsend@education.gsi.gov.uk](mailto:paula.townsend@education.gsi.gov.uk).