

2001 No. 1828

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Day Care and Child Minding (National Standards)
(England) Regulations 2001**

Made - - - - - *9th May 2001*

Laid before Parliament *10th May 2001*

Coming into force - - *2nd July 2001*

In exercise of the powers conferred on the Secretary of State by sections 79C and 104(4) of the Children Act 1989^(a) the Secretary of State for Education and Employment, having consulted Her Majesty's Chief Inspector of Schools in England and such other persons as he considered appropriate, hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Day Care and Child Minding (National Standards) (England) Regulations 2001 and shall come into force on 2nd July 2001.

(2) These Regulations apply only in relation to England.

Interpretation

2. In these Regulations unless the context otherwise requires—

“the Act” means the Children Act 1989;

“child care category” means each one of the five categories of child minding and day care provision set out in the national standards documents;

“national standards” means the standards numbered 1 to 14 set out in each of the national standards documents;

“national standards document” means a document published by the Department for Education and Employment listed in Schedule 1 to these Regulations;

“parent”, in relation to a child, includes any person—

(a) who is not his parent but who has parental responsibility for him, or

(b) who has care of him;

“person in charge” means in relation to day care the individual appointed by the registered person as the person in charge of providing actual day care on the premises;

“registered person” means a person registered under Part XA of the Act as a child minder or a provider of day care;

“supporting criteria” means the criteria set out in respect of each national standard in each national standards document.

National Standards

3.—(1) In exercising his functions under Part XA of the Act, the Chief Inspector—

(a) shall have regard to the national standards and supporting criteria; and

^(a) 1989 c. 41; section 79C was inserted by section 79 of the Care Standards Act 2000 (c. 14).

- (b) may take account of—
 - (i) the duty imposed on a registered person by paragraph (2); and
 - (ii) any failure or alleged failure of such a person to comply with that duty in any respect or on any occasion.
- (2) A registered person who acts as a child minder, or provides day care, on premises shall—
 - (a) meet the requirements of the national standards; and
 - (b) have regard to the supporting criteria applicable to the child care category into which he falls.
- (3) Any allegation that a registered person has failed to comply with paragraph (2) may be taken into account in any proceedings under Part XA of the Act.

Provision of information

- 4.—(1) A registered person shall notify the Chief Inspector of the occurrence of any of the events set out in Schedule 2 to these Regulations and shall at the same time provide him with any information specified in that Schedule in respect of that event.
- (2) Notification shall be made—
 - (a) where it is reasonably practicable to do so, in advance of the event occurring, and
 - (b) in all other cases as soon as reasonably practicable, but not later than 14 days, after the event has occurred.

Keeping of records

- 5.—(1) Subject to paragraph (2), a registered person shall—
 - (a) keep at the premises all the records specified in Schedule 3 to these Regulations;
 - (b) preserve every entry in the records specified in paragraphs 5, 6 and 7 of that Schedule for a period of two years from the date on which the entry was made; and
 - (c) provide the Chief Inspector with copies of such of those records as he may from time to time request.
- (2) A registered person who provides day care by means of an open access scheme is not required to keep the records specified in paragraphs 1, 2 and 5 of that Schedule.
- (3) An “open access scheme” is a scheme for the provision of day care which does not require—
 - (a) children to be accompanied by a parent or other responsible person while on the premises at which the day care is provided; or
 - (b) children to be escorted by a parent or other responsible person to and from those premises.

Notice

- 6.—(1) Where the Chief Inspector considers that a registered person has failed to comply with the requirements of regulation 3(2) or regulation 5 he may give notice to the registered person specifying—
 - (a) in what respect that person has failed or is failing to comply with the requirements of that paragraph,
 - (b) what action the person should take to comply, and
 - (c) the period within which that person should take action, such period to begin with the date of the notice.
- (2) A registered person shall comply with the terms of the notice within the period specified in that notice.
- (3) A notice under this regulation shall be given in accordance with regulation 7.

Service

- 7.—(1) A notice may be given by being delivered personally to the registered person, sent by post in a registered letter or by the recorded delivery service or by being transmitted electronically.

(2) For the purposes of section 7 of the Interpretation Act 1978(a) (which defines “service by post”) a letter to a registered person enclosing a notice given under this regulation shall be deemed to be properly addressed if it is addressed to him at the home address notified to the Chief Inspector upon the registered person’s application for registration or subsequently.

(3) A notice is transmitted electronically for the purposes of paragraph (1) where the particulars contained in the notice are transmitted by electronic means from a computer system operated by the Chief Inspector to a computer system operated by the registered person at any number or address used for the purposes of electronic communications notified by that person to the Chief Inspector.

Offence

8.—(1) A registered person who, without reasonable excuse, has failed to comply with the requirements of regulation 4 or paragraph (2) of regulation 6 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Proceedings under this regulation may only be taken by the Chief Inspector.

9th May 2001

Margaret Hodge
Parliamentary Under Secretary of State,
Department for Education and Employment

(a) 1978 c. 30.

NATIONAL STANDARDS DOCUMENTS

“National Standards for Under Eights’ Day Care and Child Minding
Child Minding” ISBN 1 84185 515 4

“National Standards for Under Eights’ Day Care and Child Minding
Full Day Care” ISBN 1 84185 516 2

“National Standards for Under Eights’ Day Care and Child Minding
Out of School” ISBN 1 84185 517 0

“National Standards for Under Eights’ Day Care and Child Minding
Creches” ISBN 1 84185 518 9

“National Standards for Under Eights’ Day Care and Child Minding
Sessional Care” ISBN 1 84185 519 7

SCHEDULE 2

EVENTS TO BE NOTIFIED TO
THE CHIEF INSPECTOR

- 1.—(1) In the case of child minding, a change of the following persons—
 - (a) any person looking after children on the premises, or
 - (b) any person living or employed on the premises.
- (2) The information to be provided is the new person’s date of birth, full name, any former names or aliases and home address.
- 2.—(1) In the case of day care, a change of the following persons—
 - (a) any person in charge,
 - (b) anyone looking after children on the premises,
 - (c) anyone living or working on the premises (provided that persons are not to be treated as working on the premises for the purposes of this paragraph if none of their work is done in the part of the premises in which children are looked after or if they do not work on the premises at times when children are looked after there), and
 - (d) where the day care is provided by a partnership, committee or corporate or unincorporate body, the Chairman, Secretary, Treasurer (or person holding a comparable position in the organisation).
- (2) The information to be provided is the new person’s date of birth, full name, any former names or aliases used by them and home address.
3. Any change in the name or home address of the registered person or those persons described in paragraph 1(1) or paragraph 2(1)(a) to (c).
4. Any change in the child care category applicable to a registered person.
5. Any change in the address of the premises.
6. In the case of day care, any change in the facilities to be used for day care on the premises, including changes to the number of rooms, their functions, the numbers of lavatories and washbasins, any separate facilities for adult workers and access to the premises for cars.
8. Any change in the hours during which day care or child minding is provided.
9. The outbreak at the premises of any infectious disease which in the opinion of any registered medical practitioner attending a child or other person at the premises is sufficiently serious to be so notified or of any serious injury to, or serious illness of, or the death of, any child or other person on the premises.
10. Any allegations of serious harm against a child committed by any person looking after children at the premises, or by any person living, working or employed on the premises, or any abuse alleged to have taken place at the premises.
11. Any other event which may affect the suitability of the registered person to look after children or the suitability of any person living, working or employed on the premises to be in regular contact with children.
12. Any other significant event which is likely to affect the welfare of any child on the premises.

RECORDS TO BE KEPT AT THE PREMISES

PARTICULARS REQUIRED IN ALL CASES

1. The name, home address and date of birth of each child who is looked after on the premises.
2. The name, home address and telephone number of a parent.
3. The name, home address and telephone number of the registered person and every other person living or employed on the premises.
4. The name, home address and telephone number of any other person who will regularly be in unsupervised contact with the children looked after there.
5. A daily record of the names of the children looked after on the premises, their hours of attendance and the names of the persons who looked after them.
6. A record of accidents occurring on the premises.
7. A record of any medicinal product administered to any child on the premises, including the date and circumstances of its administration, by whom it was administered, including medicinal products which the child is permitted to administer to himself, together with a record of a parent's consent.

PARTICULARS WHERE THE REGISTERED PERSON IS PROVIDING DAY CARE

8. A statement of the procedure to be followed in the event of a fire or accident.
9. A statement of the procedure to be followed in the event of a child being lost or not collected.
10. A statement of the procedure to be followed where a parent has a complaint about the service provided by the registered person.
11. A statement of the arrangements in place for the protection of children, including arrangements to safeguard the children from abuse or neglect and procedures to be followed in the event of allegations of abuse or neglect.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require that a person who is registered under Part XA of the Children Act 1989 (as inserted by the Care Standards Act 2000) to act as a child minder or provide day care meets the requirements of the national standards and has regard to the supporting criteria, as set out in the documents listed in Schedule 1. Regulations 3 and 6 also place certain duties and confer certain powers on Her Majesty's Chief Inspector of Schools in England in respect of the national standards and supporting criteria, including the power to take criminal proceedings against a person so registered in the circumstances set out in regulations 6 and 8. These Regulations also require that a person so registered notifies Her Majesty's Chief Inspector of Schools of the matters specified in Schedule 2, and keeps the records specified in Schedule 3.

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