

**EXPLANATORY MEMORANDUM TO
THE DAY CARE AND CHILD MINDING (REGISTRATION FEES) (ENGLAND)
(AMENDMENT) REGULATIONS 2007**

2007 No. 1769

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This Statutory Instrument increases the registration and annual fees payable by childcare providers from 3rd September 2007.

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

- 3.1 None

4. **Legislative Background**

- 4.1 Section 79E(2)(c) of the Children Act 1989 enables the Secretary of State to prescribe a fee in relation to any application for registration for day care provision and for childminding. Paragraph 7 of Schedule 9A to the Children Act 1989 provides that the Secretary of State may prescribe periodic fees to be paid by registered day care providers and childminders.

- 4.2 The Childminding and Day Care (Registration and Annual Fees) Regulations 2001 (S.I. 2001/1886) prescribed the fees under section 79F of the Children Act 1989 in relation to registration for child minding and for providing day care. The regulations also prescribed the annual fees payable by child minders and those providing day care under paragraph 7 of Schedule 9A to the Children Act 1989 and the time at which they should be paid.

- 4.3 The Children Act 2004 amended section 79E and 79F of, and paragraph 7 of Schedule 9A to, the Children Act 1989 to provide that fees are to be paid at the time of application rather than at some point up until the grant or refusal of registration and to provide for fees to be paid other than annually.

- 4.4 The Day Care and Child Minding (Registration Fees) (England) Regulations 2005 (S.I. 2005 No. 2301) revoked the Childminding and Day Care (Registration and Annual Fees) Regulations 2001 (S.I. 2001/1886), which was necessary following the amendment to the Children Act 1989 by the Children Act 2004 outlined at 4.3 above. The level of fees did not change.

4.5 The Day Care and Child Minding (Registration Fees) (England) (Amendment) Regulations 2006 (S.I 2006 No. 2081) increased, from 2nd October 2006, the application and annual fees that day care providers and childminders pay to Ofsted.

4.6 These Regulations increase, from 3rd September 2007, the application and annual fees that day care providers and childminders will pay to Ofsted.

5. Territorial Extent and Application

5.1 This instrument applies only in relation to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 Registration fees for childminders (£18 on application for registration and £14 annually thereafter) are currently among the lowest of any such fees for children's services. Fees for day care providers (£150 and £120 for application and annual fees respectively), reflect that they are generally larger scale businesses, but still only represent a fraction of the costs of registration (5%) by Ofsted with 95% being met by the taxpayer. Since 2001 the fees have only been increased once, in 2006, following the 2006 consultation – Childcare Registration: Fees Proposal.

7.2 This consultation also set out the government's longer term objectives which are:

- to implement a phased move away from a system of large government subsidies to one where providers pay a greater share of the cost of registration;
- to introduce fairer, more flexible and targeted arrangements, so that fees better reflect the cost of the service, and that subsidies are directed at those who need them; and,
- in the longer term, to consider whether local authorities could assume a higher profile role in subsidy arrangements, determining the extent of subsidy offered based on knowledge of their local providers, in the light of their strengthened responsibility for facilitating the local childcare market.

7.3 58% of respondents agreed that the fees and subsidy arrangements should be changed to achieve a fairer balance between fees providers can afford to pay and subsidies from the taxpayer, while 70% agreed that the Regulatory Impact Assessment contained sufficient information to accurately inform them about the options considered and proposed changes.

7.4 The fees increase that was implemented in October 2006 was the first step towards achieving a better balance between payment by providers and subsidies funded by the taxpayer. This small increase in fees will progress matters further in that direction.

7.5 All three of the government objectives were consulted on in 2006 and will be taken be taken further forward in the proposals for a new fees regime under the Childcare Act 2006, to support the new Early Years and Ofsted Childcare Registers which will commence in September 2008. It is intended that consultation on these proposals will take place during the autumn of 2007.

8. Impact

8.1 There is no Regulatory Impact Assessment as the fees increase made by these regulations takes forward proposals set out in the 2006 consultation.

8.2 There will be minimum impact on the private, voluntary and independent early years sector as this fee increase, only the second increase since 2001, is small but moving matters in the direction consulted on in 2006.

9. Contact

Andy Davey at the Department for Education and Skills Tel: 0207 273 5704 or e-mail: andy.davey@dfes.gsi.gov.uk can answer any queries regarding the instrument.