

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 48

CHILD MINDING AND DAY CARE

1 Part 10A of the Children Act 1989 (c. 41) is amended as follows.

Commencement Information

- II** Sch. 4 para. 1 not in force at Royal Assent see s. 67(7); Sch. 4 para. 1 in force at 1.3.2005 for certain purposes for E. by S.I. 2005/394, art. 2(1); Sch. 4 para. 1 in force for E. in so far as not already in force at 3.10.2005 by S.I. 2005/2298, art. 2(1) (with savings in art. 2(2)); Sch. 4 partly in force at 1.4.2006 by S.I. 2006/885, art. 2(2)

Amendments relating to child minding and day care

Conditions imposed by justice of the peace or tribunal

- 2 (1) In section 79B(3)(d) and (4)(d), for “by the registration authority” substitute “under this Part”.
- (2) In section 79G(2), omit “under section 79F(3)”.

Commencement Information

- I2** Sch. 4 para. 2 wholly in force at 1.4.2006; Sch. 4 para. 2 not in force at Royal Assent see s. 67(7); Sch. 4 para. 2 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 2 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Application fees

- 3 (1) In section 79E(2), at the end insert—
“(c) be accompanied by the prescribed fee.”
- (2) In section 79F(1) and (2)—
(a) after “on an application” insert “under section 79E”;
(b) omit paragraph (b) and the preceding “and”.

Commencement Information

- I3** Sch. 4 para. 3 wholly in force at 1.4.2006; Sch. 4 para. 3 not in force at Royal Assent, see s. 67; Sch. 4 para. 3 in force for E. at 3.10.2005 by S.I. 2005/2298, art. 2(1) (subject to art. 2(2)); Sch. 4 para. 3 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

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Fees payable by registered persons

- 4 (1) In section 79G(1), for “an annual fee” substitute “ a fee ”.
- (2) In Schedule 9A—
- (a) in the heading before paragraph 7, omit “Annual”;
 - (b) in paragraph 7, for the words from “at prescribed times” to the end substitute “, at or by the prescribed times, fees of the prescribed amounts in respect of the discharge by the registration authority of its functions under Part XA. ”

Commencement Information

- I4** [Sch. 4 para. 4](#) wholly in force at 1.4.2006; [Sch. 4 para. 4](#) not in force at Royal Assent, see [s. 67](#); [Sch. 4 para. 4](#) in force for E. at 3.10.2005 by [S.I. 2005/2298](#), [art. 2\(1\)](#) (subject to [art. 2\(2\)](#)); [Sch. 4 para. 4](#) in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

Waiver of disqualification

- 5 In Schedule 9A, in paragraph 4(3A)—
- (a) after “disqualified for registration” insert “ (and may in particular provide for a person not to be disqualified for registration for the purposes of subparagraphs (4) and (5)) ”;
 - (b) in paragraph (b), omit “to his registration”.

Commencement Information

- I5** [Sch. 4 para. 5](#) partly in force; [Sch. 4 para. 5](#) not in force at Royal Assent see [s. 67\(7\)](#); [Sch. 4 para. 5](#) in force for E. at 1.3.2005 by [S.I. 2005/394](#), [art. 2\(1\)](#)

Amendments relating to day care only

Qualification for registration

- 6 In section 79B(4)—
- (a) for paragraphs (a) and (b) substitute—
 - “(a) he has made adequate arrangements to ensure that—
 - (i) every person (other than himself and the responsible individual) looking after children on the premises is suitable to look after children under the age of eight; and
 - (ii) every person (other than himself and the responsible individual) living or working on the premises is suitable to be in regular contact with children under the age of eight;
 - (b) the responsible individual—
 - (i) is suitable to look after children under the age of eight, or
 - (ii) if he is not looking after such children, is suitable to be in regular contact with them;”;

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- (b) in subsection (5), for “(4)(b)” substitute “ (4)(a) ”;
- (c) after subsection (5) insert—

“(5ZA) For the purposes of subsection (4), “the responsible individual” means—

- (a) in a case of one individual working on the premises in the provision of day care, that person;
- (b) in a case of two or more individuals so working, the individual so working who is in charge.”

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- I6** Sch. 4 para. 6 wholly in force at 1.4.2006; Sch. 4 para. 6 not in force at Royal Assent, see s. 67; Sch. 4 para. 6 in force for E. at 3.10.2005 by S.I. 2005/2298, art. 2(1) (with savings in art. 2(2)); Sch. 4 para. 6 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Hotels etc

- 7 In Schedule 9A, after paragraph 2 insert—

“2A (1) Part XA does not apply to provision of day care in a hotel, guest house or other similar establishment for children staying in that establishment where—

- (a) the provision takes place only between 6 pm and 2 am; and
- (b) the person providing the care is doing so for no more than two different clients at the same time.

(2) For the purposes of sub-paragraph (1)(b), a “client” is a person at whose request (or persons at whose joint request) day care is provided for a child.”

Commencement Information

- I7** Sch. 4 para. 7 wholly in force at 1.4.2006; Sch. 4 para. 7 not in force at Royal Assent see s. 67(7); Sch. 4 para. 7 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 7 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Prohibition in respect of disqualified persons

- 8 In Schedule 9A, in paragraph 4(4)—

- (a) after “or be” insert “ directly ”;
- (b) omit “, or have any financial interest in,”.

Commencement Information

- I8** Sch. 4 para. 8 wholly in force at 1.4.2006; Sch. 4 para. 8 not in force at Royal Assent see s. 67(7); Sch. 4 para. 8 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 8 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

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Unincorporated associations

9 In Schedule 9A, after paragraph 5 insert—

“Provision of day care: unincorporated associations

- 5A (1) References in Part XA to a person, so far as relating to the provision of day care, include an unincorporated association.
- (2) Proceedings for an offence under Part XA which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (3) 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.
- (4) In proceedings for an offence under Part XA brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure) apply as they do in relation to a body corporate.
- (5) A fine imposed on an unincorporated association on its conviction of an offence under Part XA is to be paid out of the funds of the association.
- (6) If an offence under Part XA committed 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.”

Commencement Information

19 Sch. 4 para. 9 wholly in force at 1.4.2006; Sch. 4 para. 9 not in force at Royal Assent see s. 67(7); Sch. 4 para. 9 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 9 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

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