
STATUTORY INSTRUMENTS

2003 No. 1996

CHILDREN AND YOUNG PERSONS, ENGLAND

The Day Care and Child Minding (National Standards) (England) Regulations 2003

<i>Made</i>	- - - -	<i>1st August 2003</i>
<i>Laid before Parliament</i>		<i>8th August 2003</i>
<i>Coming into force</i>	- -	<i>1st September 2003</i>

In exercise of the powers conferred upon the Secretary of State by sections 79C and 104(4) of the Children Act 1989(1), the Secretary of State for Education and Skills, 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 application

1.—(1) These Regulations may be cited as the Day Care and Child Minding (National Standards) (England) Regulations 2003 and shall come into force on 1st September 2003.

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

Revocation

2. The Day Care and Child Minding (National Standards) (England) Regulations 2001(2), are hereby revoked.

Interpretation

3. In these Regulations—

“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;

“corporal punishment” means anything done for the purpose of punishing the child (whether or not there are other reasons for doing it) which, absent any justification, would constitute battery;

(1) 1989 c. 41. Section 79C was inserted into the Children Act by section 79(1) of the Care Standards Act 2000 (c. 14). For the definition of “prescribed” see section 105(1) of the Act and for the meaning of “regulations” see section 79B(7).

(2) S.I.2001/1828.

“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 Skills 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;

“premises” means the premises where day care or child minding is provided as described on the certificate of registration ;

“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

4.—(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
- (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) comply with the requirements of these Regulations;
- (b) meet the requirements of the national standards; and
- (c) have regard to the supporting criteria that are applicable to the child care category into which the care provided by him falls and to any additional or alternative supporting criteria which he is notified by the Chief Inspector are applicable to that care.

(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.

Prohibition on use of corporal punishment

5.—(1) A registered person shall not give corporal punishment to a child for whom he acts as a child minder or provides day care and, so far as is reasonably practicable, shall ensure that corporal punishment is not given to any such child by—

- (a) any person looking after children on the premises;
- (b) any person in charge; or
- (c) any person living or working on the premises.

(2) A person shall not be taken to have given corporal punishment in breach of paragraph (1) if the action was taken for reasons that include averting an immediate danger of personal injury to, or an immediate danger of death of, any person (including the child himself).

Provision of information

6.—(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

7.—(1) Subject to paragraph (3), a registered person shall—

- (a) keep at the premises, or at another location notified to and agreed by the Chief Inspector, all the records specified in paragraphs 1 to 6 of Schedule 3 to these Regulations;
- (b) preserve every entry in the records specified in paragraphs 4, 5 and 6 of that Schedule for a period of two years from that 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 shall—

- (a) keep at the premises, or at another location notified to and agreed by the Chief Inspector, all the records specified in paragraphs 7 to 11 of Schedule 3 to these Regulations;
- (b) provide the Chief Inspector with copies of such of those records as he may from time to time request.

(3) 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, 4 and 9 of that Schedule.

(4) 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

8.—(1) Where the Chief Inspector considers that a registered person has failed or is failing to comply with the requirements of regulation 4(2) or regulation 7 he may give notice to the registered person specifying—

- (a) in what respect that person has failed or is failing to comply with those requirements;
- (b) what action the person should take to comply; and
- (c) the period within which that person should take that 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 9.

Service

9.—(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 (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 correspondence 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 by the Chief Inspector to the registered person at any number or address used for the purposes of electronic communications notified by that person to the Chief Inspector.

Offence

10.—(1) A registered person who, without reasonable excuse, has failed to comply with the requirements of regulation 5 or 6 or paragraph (2) of regulation 8 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.

1st August 2003

Catherine Ashton
Parliamentary Under Secretary of State,
Department for Education and Skills

SCHEDULE 1

Regulation 3

National Standards Documents

“National Standards for Under Eights' Day Care and Child Minding – Childminding” [2003] ISBN 1-84478-060-0.

“National Standards for Under Eights' Day Care and Child Minding – Full Day Care” [2003] ISBN 1-84478-061-9.

“National Standards for Under Eights' Day Care and Child Minding – Out of School Care” [2003] ISBN 1-84478-062-7.

“National Standards for Under Eights' Day Care and Child Minding – Creches” [2003] ISBN 1-84478-063-5.

“National Standards for Under Eights' Day Care and Child Minding – Sessional Care” [2003] ISBN 1-84478-064-3.

SCHEDULE 2

Regulation 6

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 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).
- (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) any person looking after children on the premises,
 - (c) any person 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),
 - (d) where the day care is provided by a partnership, committee or corporate or unincorporated body whose prime purpose is to provide day care, any person who is a member of that body, and
 - (e) where the day care is provided by a partnership, committee or corporate or unincorporated body whose prime purpose is not the provision of day care, any person who has delegated, clearly identifiable and direct responsibility for the provision of day care.
- (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 address of the registered person and—
 - (a) where day care is provided by a body corporate, any change in the name or registered number of the company; or

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- (b) where day care is provided by a registered charity, any change in the name or registration number of the charity.
- 3. Where day care is provided by a committee, partnership or unincorporated body, particulars of any change in the name of the body that provides the care.
- 4. Particulars of any change in the child care category applicable to a registered person.
- 5. Particulars of any change in the address of the premises.
- 6. In the case of day care, particulars of any change in the facilities to be used for day care that may affect the space available to children and the level of care available to them.
- 7. Particulars of any change in the hours during which day care or child minding is provided which will entail the provision of overnight care.
- 8. Particulars of any food poisoning affecting two or more children looked after at the premises, any child having meningitis or the outbreak at the premises of a notifiable disease as listed by the Health Protection Agency.
- 9. Particulars of any serious accident or injury to, or serious illness of, or the death of, any child whilst in the care of a registered person; or
- 10. Particulars of any serious accident or injury to, or serious illness of, or the death of, any other person on the premises.
- 11. Particulars of any allegations of serious harm or abuse against a child committed—
 - (a) by any person looking after children at the premises (whether that allegation relates to harm or abuse committed on the premises or elsewhere); or
 - (b) by the registered person, or any person living, working or employed on the premises.
- 12. Particulars of any other significant event which is likely to affect the suitability of the registered person or any person caring for the children on the premises to look after children.

SCHEDULE 3

Regulation 7

Records to be kept by registered persons

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 of each child who is looked after on the premises.
- 3. The name, home address and telephone number of any person who will be looking after children on the premises.
- 4. 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.
- 5. A record of accidents occurring on the premises.
- 6. 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

7. The name, address and telephone number of the registered person and every other person living or employed on the premises.
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 revoke and re-enact with modifications the Day Care and Child Minding (National Standards) Regulations 2001 which are repealed. They 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. He must also ensure that corporal punishment is not used by anyone who looks after children (regulation 5). Regulations 4 and 8 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 5, 6, 8 and 10. 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.