

CARE STANDARDS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part Vi – Child Minding and Day Care for Young Children

Section 79 Amendment of the Children Act 1989

Registration

Section 79D Requirement to register

194. This section requires child minders and day care providers to register with HMCIS in order to operate in England, or with the National Assembly in order to operate in Wales. It also empowers, but does not require, the registration authorities to serve an enforcement notice on an unregistered childminder. It is offence to act, without reasonable excuse, as an unregistered childminder whilst the notice is in effect. It is also an offence to act as an unregistered day care provider. Offences under this section will carry a fine of up to level 5 on the standard scale.

Section 79E Applications for registration

195. This section provides for the application procedure to be followed by a person wishing to act as a child minder or day care provider. The provision of day care on different premises requires separate applications in respect of each premises.

Section 79F Grant or refusal of registration

196. This section sets the criteria, including payment of a prescribed fee, to be met in order for the registration authority to register a person as a child minder or day care provider. If a registered child minder or day care provider fails to comply with any of the conditions of registration, they may be liable for a fine of up to level 5 on the standard scale. The authority must also make any register of child minders and day care providers available to the public.

Section 79G Cancellation of registration

197. This section enables the registration authority to cancel registration if it considers the child minder or day care provider has ceased or will cease to be eligible or if the annual fee has not been paid. Any cancellation must be in writing.

Section 79H Suspension of registration

198. This section enables regulations to be made which would give the registration authority a power to suspend registration. It is envisaged the power will be exercised when children are considered to be at risk in circumstances which may lead to cancellation of registration. Any regulations made will allow providers a right of appeal to the Tribunal against suspension.

Section 79J Resignation of registration

199. This section makes new provision for child minders and day care providers to voluntarily give up their registration. This will be helpful, for example, in ensuring that information for parents seeking child care provision relates only to active

providers. However, resignation of registration is not permitted in circumstances where cancellation of registration is a possibility.

Section 79K Protection of children in an emergency

200. This section provides that the registration authority can apply to the Magistrates' court for an emergency order in respect of a registered childminder or day care provider where the registration authority believes that a child in their care is suffering, or is likely to suffer, significant harm. The order may cancel the person's registration, vary or remove a condition of registration, or impose a new condition of registration with immediate effect.

Section 79L Notice of intention to take steps

201. This section sets out the procedure for notification of decisions by the registration authority. It gives the applicant or registered person a right to make representations about a proposal to take action to which he objects.

Section 79M Appeals

202. This section enables an appeal to the Tribunal to be made against any decision of the registration authority made under section 79L or an order made under section 79K. The Tribunal may allow or refuse an appeal and may impose, vary or cancel any condition of registration.