



Childcare Act 2006

2006 CHAPTER 21

PART 3

REGULATION OF PROVISION OF CHILDCARE IN ENGLAND

CHAPTER 5

COMMON PROVISIONS

Rights of entry

- 77 **[^{F1}Chief Inspector's powers of entry: early years provision and later years provision]**
- (1) ^{F2}... the Chief Inspector may at any reasonable time enter any premises in England if he has reasonable cause to believe that early years provision or later years provision is being provided on the premises in breach of section 33(1), 34(1) [^{F3}or (1A)], 52(1) or 53(1) [^{F4}or (1A)].
 - (2) ^{F5}... the Chief Inspector may at any reasonable time enter any premises in England on which early years provision or later years provision in respect of which a person is registered under this Part is being provided—
 - (a) for the purpose of conducting an inspection under section 49 [^{F6}, 51D(2), 60 or 61E(2)], or
 - (b) for the purpose of determining whether any conditions or requirements imposed by or under this Part are being complied with.
 - (3) [^{F7}An authorisation given by the Chief Inspector under paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 in relation to his functions] under subsection (1) or (2)—
 - (a) may be given for a particular occasion or period;
 - (b) may be given subject to conditions.

Status: Point in time view as at 01/09/2014.

Changes to legislation: Childcare Act 2006, Cross Heading: Rights of entry is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b))—
- (a) inspect the premises;
 - (b) inspect, and take copies of—
 - (i) any records kept by the person providing the childcare, and
 - (ii) any other documents containing information relating to that provision;
 - (c) seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;
 - (d) take measurements and photographs or make recordings;
 - (e) inspect any children being cared for there, and the arrangements made for their welfare;
 - (f) interview in private the childcare provider;
 - (g) interview in private any person caring for children, or living or working, on the premises who consents to be interviewed.
- (5) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b)) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under this section.
- (6) Section 58 of the Education Act 2005 (c. 18) (inspection of computer records for the purposes of Part 1 of that Act) applies for the purposes of this section as it applies for the purposes of Part 1 of that Act.
- ^{F8}(7)
- (8) A person commits an offence if he intentionally obstructs a person exercising any power under this section.
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (10) In this section, “documents” and “records” each include information recorded in any form.

Textual Amendments

- F1** Words in s. 77 substituted (1.4.2014 for specified purposes, 1.9.2014 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 4 para. 47(4)**; S.I. 2014/889, arts. 3(m), 7(e)
- F2** Words in s. 77(1) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 113\(2\)](#), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F3** Words in s. 77(1) inserted (1.4.2014 for specified purposes, 1.9.2014 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 4 para. 47(2)(a)**; S.I. 2014/889, arts. 3(m), 7(e)
- F4** Words in s. 77(1) inserted (1.4.2014 for specified purposes, 1.9.2014 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 4 para. 47(2)(b)**; S.I. 2014/889, arts. 3(m), 7(e)
- F5** Words in s. 77(2) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 113\(2\)](#), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)

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- F6** Words in s. 77(2)(a) substituted (1.4.2014 for specified purposes, 1.9.2014 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 4 para. 47(3)**; S.I. 2014/889, arts. 3(m), 7(e)
- F7** Word in s. 77(3) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 14 para. 113(3)**; S.I. 2007/935, art. 5(gg)
- F8** S. 77(7) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 113(4), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)

Commencement Information

- I1** S. 77 in force at 6.4.2007 by S.I. 2007/1019, **art. 4**

78 [F9 Powers of entry under section 77: requirement for consent]

- (1) This section applies where a person (“the authorised person”) proposes to enter domestic premises in pursuance of—
- provision made by virtue of section 42(1) and (4) in a learning and development order specifying assessment arrangements in relation to early years provision, or
 - a power of entry conferred by section 77(2).
- (2) If the authorised person has reasonable cause to believe—
- that the premises are not the home of the person providing the early years or later years provision, or
 - that the premises are the home of a child for whom the early years or later years provision is provided,
- the authorised person may not enter the premises without the consent of an adult who is an occupier of the premises.
- (3) Subsection (2) does not prevent the imposition under section 38, 58 or 66 of a condition requiring a person registered under Chapter 2, 3 or 4 to secure that the occupier of any premises on which the registered person provides early years provision or later years provision gives any consent required by that subsection.
- (4) In this section—
- “a learning and development order” means an order under section 39(1)(a);
 - “occupier” does not include the person providing the early years or later years provision.

Textual Amendments

- F9** S. 78 substituted (1.4.2014 for specified purposes, 1.9.2014 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 4 para. 48**; S.I. 2014/889, arts. 3(m), 7(e)

Commencement Information

- I2** S. 78 in force at 6.4.2007 by S.I. 2007/1019, **art. 4**

[F10 78A Chief Inspector's powers of entry: childminder agencies]

- (1) The Chief Inspector may at any reasonable time enter any premises in England if the Chief Inspector has reasonable cause to believe that a person on the premises is falsely representing—

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- (a) that the person is an early years childminder agency, or
 - (b) that the person is a later years childminder agency.
- (2) The Chief Inspector may at any reasonable time enter any premises in England which is registered in—
- (a) the early years register as premises of an early years childminder agency, or
 - (b) Part A of the general childcare register as premises of a later years childminder agency,
- for any of the purposes in subsection (3).
- (3) Those purposes are—
- (a) conducting an inspection under section 51D(1) or 61E(1);
 - (b) determining whether any conditions or requirements imposed by or under this Part are being complied with.
- (4) An authorisation given by the Chief Inspector under paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 in relation to the functions under subsection (1) or (2)—
- (a) may be given for a particular occasion or period;
 - (b) may be given subject to conditions.
- (5) A person entering premises under this section may (subject to any conditions imposed under subsection (4)(b))—
- (a) inspect the premises;
 - (b) inspect, and take copies of—
 - (i) any records kept concerning early years providers or later years providers, and
 - (ii) any other documents containing information relating to such providers;
 - (c) seize and remove any document or other material or thing found there which the person has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;
 - (d) take measurements and photographs or make recordings;
 - (e) interview in private any person present on the premises who works there.
- (6) A person entering premises under this section may (subject to any conditions imposed under subsection (4)(b)) require any person to afford such facilities and assistance with respect to matters within the person's control as are necessary to enable the powers under this section to be exercised.
- (7) Section 58 of the Education Act 2005 (inspection of computer records for the purposes of Part 1 of that Act) applies for the purposes of this section as it applies for the purposes of Part 1 of that Act.
- (8) It is an offence intentionally to obstruct a person exercising any power under this section.
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (10) In this section, “documents” and “records” each include information recorded in any form.

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Textual Amendments

F10 Ss. 78A, 78B inserted (1.4.2014 for specified purposes) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 4 para. 49](#); S.I. 2014/889, art. 3(m)

^{F11}78B Powers of entry under section 78A: requirement for consent

- (1) This section applies where a person (“ the authorised person ”) proposes to enter domestic premises in pursuance of a power of entry conferred by section 78A(2).
- (2) If the authorised person has reasonable cause to believe that the premises are the home of a person who—
 - (a) is not employed by the early years childminder agency or (as the case may be) the later years childminder agency, or
 - (b) is not a director, manager or other officer of, or partner in, the agency, a member of its governing body or otherwise directly concerned in the management of the agency,the authorised person may not enter the premises without the consent of an adult who is an occupier of the premises and who falls within paragraph (a) or (b).]

Textual Amendments

F10 Ss. 78A, 78B inserted (1.4.2014 for specified purposes) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 4 para. 49](#); S.I. 2014/889, art. 3(m)

F11 Ss. 78A, 78B inserted (1.4.2014 for specified purposes, 1.9.2014 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 4 para. 49](#); S.I. 2014/889, arts. 3(m), 7(e)

79 Power of constable to assist in exercise of powers of entry

- (1) [^{F12}The Chief Inspector] may apply to a court for a warrant under this section.
- (2) If it appears to the court that the [^{F13} Chief Inspector]—
 - (a) has attempted to exercise a power conferred on him by section 77 [^{F14}or 78A] but has been prevented from doing so, or
 - (b) is likely to be prevented from exercising any such power,the court may issue a warrant authorising any constable to assist [^{F15}the Chief Inspector] in the exercise of the power, using reasonable force if necessary.
- (3) A warrant issued under this section must be addressed to, and executed by, a constable.
- ^{F16}(4)
- (5) In this section, “court” means the High Court [^{F17}or the family court].

Textual Amendments

F12 Words in s. 79(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 114\(2\)](#); S.I. 2007/935, art. 5(gg)

F13 Words in s. 79(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 114\(3\)\(a\)](#); S.I. 2007/935, art. 5(gg)

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- F14** Words in s. 79(2)(a) inserted (1.4.2014 for specified purposes, 1.9.2014 in so far as not already in force) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 4 para. 50**; S.I. 2014/889, arts. 3(m), 7(e)
- F15** Words in s. 79(2) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 114(3)(b)**; S.I. 2007/935, art. 5(gg)
- F16** S. 79(4) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 204(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F17** Words in s. 79(5) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 204(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

- I3** S. 79 in force at 6.4.2007 by S.I. 2007/1019, **art. 4**

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