

## SCHEDULE

Article 3

**Transitional, Transitory and Savings Provisions****Interpretation**

1.—(1) In this Schedule,

“authorised person” except in paragraph 12, has the meaning ascribed to it in paragraph 26(2);

“the appointed day” means 2nd July 2001;

“the effective date” means such day as may be appointed for the coming into force of section 116 of the Act in so far as it relates to paragraph 26(3) of Schedule 4 to the Act (consequential amendments relating to the Protection of Children Act 1999(1)).

“the operative date” shall be 1st September 2001;

“the original registration” has the meaning ascribed to it by paragraph 16(1);

“transfer” and “transferred”, in relation to registration, refer to the process for which provision is made by paragraph 16(2);

“transitional period” means one of the transitional periods established by sub-paragraph (2).

(2) For the purposes of this Schedule, there shall be four periods (“transitional periods”) the duration of each of which shall be determined in accordance with sub-paragraph (3).

(3) For each transitional period named in column 1 of the following table, the day on which the period will commence is given in column 2 and the day on which the period will conclude is given in column 3.

<i>Column 1</i> <i>Transitional period</i>	<i>Column 2</i> <i>Day commencing</i>	<i>Column 3</i> <i>Day concluding</i>
First	2nd July 2001	the day before the effective date.
Second	2nd July 2001	31st August 2001.
Third	2nd July 2001	1st September 2002.
Fourth	2nd September 2002	the day before such day as may be appointed for the coming into force of section 79(1) for the purpose of giving effect to section 79P(3) and (4).

(4) Where a provision of this Schedule is expressed to have effect during or throughout a transitional period, then, subject to any further provision of this Schedule, that provision shall cease to have effect upon the expiry of that period.

**General saving for things done before the appointed day or during the transitional periods**

2.—(1) Unless in this Schedule the contrary intention appears, the coming into force of section 79(5) of the Act shall not affect:

(a) any act done, any notice served, any application made, any decision taken, any authorisation or consent given or any grant; or

(1) 1999 c. 14.

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- (b) any requirements or limitations of time; or
- (c) any legal proceedings commenced; or
- (d) any order made by a court

under, or in relation to Part X or Schedule 9 before the appointed day.

(2) Unless in this Schedule the contrary intention appears, the expiry of a transitional period shall not affect:

- (a) any act done, any notice served, any application made, any decision taken, any authorisation or consent given or any grant; or
- (b) any requirements or limitations of time; or
- (c) any legal proceedings commenced; or
- (d) any order made by a court

under, or pursuant, or in relation, to this Order before the expiry.

(3) In particular, legal proceedings may be instituted or continued and remedies or penalties may be imposed and enforced

- (a) after the appointed day in relation to acts done under, in relation to, or in contravention of Part X or Schedule 9 before the appointed day as if section 79(5) of the Act had not been brought into force; and
- (b) after the expiry of a transitional period in relation to acts done under, pursuant, or in relation, to or in contravention of—
  - (i) provisions of this Order having effect during that period; or
  - (ii) provisions of Part X or Schedule 9 given continued effect for any purpose during that period by this Order; or
  - (iii) Part XA or Schedule 9A;

before the expiry of that period as if the period had not expired.

### **Continuance of registrations under section 71**

3.—(1) Notwithstanding the coming into force of section 79(5) of the Act, the registration of a person who, immediately before the appointed day, was registered under section 71 shall, unless sub-paragraph (2) applies, be treated for the purposes of this Schedule, and subject to paragraphs 4, 9 and 14 below, as continuing during the second transitional period.

(2) This sub-paragraph applies where in connection with the provision of child care a person was registered for the purposes of section 71 but is not required to register under Part XA.

(3) Where, and for so long as, a registration is to be treated as continuing by virtue of sub-paragraph (1), any requirements of the local authority imposed on the registered person in relation to it and extant immediately before the appointed day shall, subject to paragraphs 7(5) and 14, continue.

### **Resignation of registration during the second transitional period**

4.—(1) A person—

- (a) whose registration is, by virtue of paragraph 3(1), to be treated as continuing, or
- (b) whose application for registration under section 71 is granted by a local authority during the second transitional period

may at any time during that period, by notice in writing to the local authority, resign his registration.

(2) But a person may not give notice under sub-paragraph (1)—

- (a) if the local authority—
  - (i) before the appointed day, sent him a notice under section 77(1), or
  - (ii) on or after the appointed day, has sent him a notice under paragraph 10(1) of its intention to cancel the registration unless the authority has already decided not to take that step; or
- (b) if the local authority
  - (i) before the appointed day, sent him a notice under section 77(5), or
  - (ii) on or after the appointed day, has sent him a notice under paragraph 10(1) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.

### **Powers and duties of the local authority in relation to registration during the second transitional period**

5.—(1) The provisions of paragraphs 6 to 11 shall have effect throughout the second transitional period.

(2) Notwithstanding the coming into force of subsections (1), (2) and (5) of section 79 of the Act, in relation to the provisions of paragraphs 6 to 10 and paragraph 12(3),

- (a) terms to which meaning was given by or for the purposes of Part X or Schedule 9 shall have those meanings; and
- (b) regulations made under and for the purposes of Part X or Schedule 9 shall be treated as having effect.

6.—(1) Each local authority shall continue to keep a register of—

- (a) persons who act as child minders on domestic premises within the authority's area; and
- (b) persons who provide day care for children under the age of eight on premises (other than domestic premises) within that area.

(2) Subject to sub-paragraphs (3) and (4) and to paragraphs 9 and 14, the register shall contain—

- (a) any person whose registration is, by virtue of paragraph 3(1), to be treated as continuing; and
- (b) any person whose application for registration under section 71 is granted by the local authority during the second transitional period.

(3) For the avoidance of doubt, no person who would be disqualified from registration if, after the appointed day, the provisions of the Disqualification for Caring for Children Regulations 1991(2) were applied in his case may be registered under sub-paragraph (2)(b).

(4) No person may be registered under sub-paragraph (2)(b) if the child care in respect of the provision of which he has applied for registration would not, in all the circumstances of his case, require him to be registered for the purposes of Part XA.

7.—(1) Where an application for registration under section 71 was made before the appointed day but had been neither granted nor refused by that date, the local authority shall, having regard where appropriate to sub-paragraphs (3) and (4) of paragraph 6, proceed to a decision with respect to that application as if Part X and Schedule 9 (modified in accordance with sub-paragraph (2)) continued to extend to England.

(2) For the purposes of sub-paragraph (1), the modifications are, in paragraph 2 of Schedule 9—

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(2) [S.I. 1991/2094](#), amended by [S.I. 1997/2308](#).

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- (a) in sub-paragraph (1), so as to remove the words from “unless” to the end; and
- (b) in sub-paragraph (3), so as to remove the words from “unless” to the end.

(3) When acting pursuant to sub-paragraph (1), in relation to any enquiries as to the fitness of the applicant to be registered, the local authority shall, for the purposes of any enactment, be treated as having all the functions, powers and duties of a local authority acting under Part X immediately prior to the appointed day.

(4) When registering a person pursuant to a decision under sub-paragraph (1), a local authority shall impose such reasonable requirements as they would have made in his case had section 72 or, as the case may be, section 73 continued to extend to England.

(5) A local authority may at any time vary any requirement imposed under section 71 or this paragraph, impose any additional requirement or remove any requirement.

### **Certificates of registration during the second transitional period**

**8.—**(1) Notwithstanding the coming into force of section 79(5), where, and for so long as, the registration of any person is, by virtue of paragraph 3(1), to be treated as continuing, the certificate issued by a local authority under paragraph 6 of Schedule 9 to that person in relation to that registration shall, subject to sub-paragraphs (4) and (5) of this paragraph, continue in force.

(2) Where a local authority register a person pursuant to a decision under paragraph 7, they shall issue him with a certificate of registration.

(3) A certificate issued under sub-paragraph (2) shall specify—

- (a) the registered person’s name and address;
- (b) in the case of registration for the provision of day care, the address or situation of the premises concerned; and
- (c) any requirements imposed under paragraph 9.

(4) Where, during the second transitional period, due to a change of circumstances, any part of the certificate requires to be amended, the authority shall issue an amended certificate.

(5) Where, during the second transitional period, the authority are satisfied that a certificate issued by them has been lost or destroyed, they shall issue a copy, on payment by the registered person of £5.

### **Cancellation of registration during the second transitional period**

**9.—**(1) A local authority may,—

- (a) for any of the reasons for cancellation given in section 74(1) and (2), at any time cancel the registration, and
- (b) in the circumstances set out in section 74(3), cancel all the registrations

of any person to whom paragraph 6(2) applies unless the circumstances provided for in subsection (4) of section 74 obtain.

(2) Any cancellation under sub-paragraph (1) must be in writing.

### **Taking of steps during the second transitional period**

**10.—**(1) Not less than 14 days before—

- (a) refusing an application for registration made under section 71;
- (b) cancelling a registration under paragraph 9;
- (c) imposing, removing or varying any requirement under paragraph 7(5);
- (d) refusing to grant any application for the variation or removal of any such requirement,

the authority concerned shall send to the applicant, or, as the case may be, the registered person, notice in writing of their intention to take the step in question (“the step”).

(2) Every such notice shall—

- (a) give the authority’s reasons for proposing to take the step; and
- (b) inform the person concerned of his rights under paragraph 24.

(3) Where the recipient of such notice informs the authority in writing of his desire to object to the step being taken, the authority shall afford him an opportunity to do so.

(4) Any objection made under sub-paragraph (3) may be made in person or by a representative.

(5) If an authority, after giving the person concerned an opportunity to object to the step being taken, decide nevertheless to take it, they shall send him written notice of their decision.

(6) A step of a kind mentioned in sub-paragraph (1)(b) or (c) shall not take effect before the expiry of the time within which an appeal may be brought under paragraph 24 or, where such an appeal is brought, before its determination.

(7) Sub-paragraph (6) does not prevent a step from taking effect before the expiry of the time within which an appeal may be brought under paragraph 24 if the person concerned notifies the authority in writing that he does not intend to appeal.

#### **Effect of registration under paragraph 6**

**11.**—(1) Subject to sub-paragraph (2), the following provisions of Part XA shall not apply to a person at any time when he is registered under paragraph 6(2):

- (a) section 79D;
- (b) section 79E;
- (c) section 79F;
- (d) section 79G;
- (e) section 79H;
- (f) section 79J;
- (g) section 79K.

(2) Sub-paragraph (1) shall not apply if, and to the extent that,

- (a) the person whose registration is treated as continuing is acting or intends to act as a child minder or is providing or intends to provide day care and he was not registered so to act or so to provide under section 71 immediately before the appointed day; and
- (b) no application is under consideration or has been granted pursuant to paragraph 7 in respect of the child minding or day care in question.

(3) Where sub-paragraph (1) applies, notwithstanding the coming into force of section 79(5) of the Act, section 78(8) and (12) shall have effect in relation to any requirement imposed or continued in effect under paragraph 3 or paragraph 7 as if it were a requirement mentioned in section 78(8).

#### **Powers of persons authorised by local authorities during the second transitional period**

**12.**—(1) The provisions of this paragraph shall apply throughout the second transitional period.

(2) References in this paragraph to an authorised person are to a person authorised by a local authority for the purposes of this paragraph.

(3) Any authorised person may at any reasonable time enter—

- (a) any domestic premises within the authority’s area on which child minding is at any time carried on by a person registered under paragraph 6(2); or

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- (b) any premises within the authority's area on which day care for children under the age of eight is at any time provided by a person registered under paragraph 6(2).
- (4) Where a local authority have reasonable cause to believe that a child is being looked after on any premises within their area in contravention of Part XA, any authorised person may enter those premises at any reasonable time.
- (5) Any person entering premises under sub-paragraph (3) or (4) may inspect—
  - (a) the premises;
  - (b) any children looked after on the premises;
  - (c) the arrangement made for their welfare; and
  - (d) any records relating to them which are kept as a result of a requirement under section 71 or paragraph 7.
- (6) Any person inspecting any records under this paragraph—
  - (a) shall be entitled at any reasonable time to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is, or has been, in use in connection with the records in question; and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used; or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such reasonable assistance as he may require.
- (7) A person exercising any power conferred by this paragraph shall, if so required, produce some duly authenticated document showing his authority to do so.
- (8) Subsections (7) and (8) of section 79U shall apply to the wilful obstruction of a person exercising any power conferred by this paragraph as they apply to the wilful obstruction of a person exercising powers under that section.

#### **Enforcement notices during the first and second transitional periods**

- 13.—(1) Where during the second transitional period, it appears to a local authority that a person has contravened section 79D(1), the authority may, if the condition of sub-paragraph (2) is satisfied, serve an enforcement notice on him.
- (2) The condition is that no notice has been served on him by the registration authority in respect of the contravention.
- (3) Where an enforcement notice is served pursuant to sub-paragraph (1), subsections (3), (4) and (7) of section 79D shall have effect as if the notice had been served pursuant to subsection (2) of that section.
- (4) Notwithstanding the coming into force of section 79(5) of the Act, an enforcement notice served by a local authority before the appointed day under section 78(4) shall continue in force until the expiry of the period calculated in accordance with section 78(5).
- (5) Sub-paragraph (6) shall apply where, on or after the appointed day, a person in respect of whom an enforcement notice is in force by virtue of sub-paragraph (4) contravenes section 79D(1).
- (6) The enforcement notice shall be treated for the purposes of section 79D(4) as if it was duly served by the registration authority in pursuance of section 79D(2).

#### **Powers of court in relation to the protection of children**

- 14.—(1) The provisions of this paragraph shall apply throughout the second transitional period.

(2) For the purposes of this paragraph, references to registration are to registration that is continued pursuant to paragraph 3 or that has been granted by a local authority pursuant to paragraph 7, and “registered person” shall be construed accordingly.

(3) If—

- (a) a local authority apply to the court<sup>(3)</sup> for an order—
  - (i) cancelling a registered person’s registration;
  - (ii) varying any requirement imposed on a registered person under section 72 or 73 or under paragraph 7; or
  - (iii) removing a requirement or imposing an additional requirement on such a person; and
- (b) it appears to the court that a child who is being, or may be, looked after by that person, or, as the case may be, in accordance with the provision for day care made by that person, is suffering, or is likely to suffer, significant harm

the court may make the order.

(4) Paragraph 24(4) has effect in relation to applications made under sub-paragraph (3).

(5) Any cancellation, variation, removal or imposition shall have effect from the date on which the order is made.

(6) An application under sub-paragraph (3) may be made without notice.

(7) An order under sub-paragraph (3) shall be made in writing.

(8) Where an order is made under this paragraph, the local authority shall serve on the registered person as soon as is reasonably practicable after the making of the Order—

- (a) a copy of the order;
- (b) a copy of any written statement of the authority’s reasons for making the application for the order which supported that application; and
- (c) notice of any right of appeal conferred by paragraph 24.

### **Saving for applications in progress at the operative date**

**15.** Notwithstanding the expiry of the second transitional period, paragraphs 14 and 24 shall continue to have effect in relation to any proceedings commenced under paragraph 14 before the expiry of that period.

### **Transfer of registration**

**16.—**(1) The provisions of this paragraph shall have effect in relation to any person—

- (a) whose registration has, by virtue of paragraph 3(1), been treated as continuing during the second transitional period; or
- (b) whose application for registration is granted by a local authority under paragraph 7 during the second transitional period

(in this paragraph, “the original registration”).

(2) Unless in the course of the second transitional period

- (a) the registration has been cancelled by a local authority acting under paragraph 9, or
- (b) the person has resigned his registration in accordance with paragraph 4,

then with effect from the operative date and subject to sub-paragraphs (3) to (5) the person shall, for the purposes of Part XA, be treated as having applied for and been granted registration.

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(3) For an explanation of the meaning of “the court”, see the footnote to paragraph 24(2), below.

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(3) For the avoidance of doubt, no fee shall be payable to the registration authority in respect of the deemed application for and grant of registration under sub-paragraph (2); and for the purpose of establishing any subsequent liability to pay an annual fee in connection with the registration, the date of that registration shall be taken to be—

- (a) in any case in which the registered person has, in relation to the registration, paid to a local authority an annual inspection fee pursuant to paragraph 7 of Schedule 9 in respect of an inspection that took place within the 12 months immediately preceding the operative date, the date of the inspection; or
- (b) in any other case, the date of the original registration.

(4) The registration under sub-paragraph (2) shall be for child minding or for providing day care on specified premises according to the purpose of the original registration.

(5) Where a person's registration is transferred pursuant to sub-paragraph (2), any requirements that were imposed upon him in relation to the registration under section 72 or, as the case may be, section 73 and were extant immediately before the operative date shall, in so far as they would be capable of being imposed by the registration authority as conditions to which the registration is subject, have effect from the operative date as if they were such conditions and had been duly imposed by the registration authority on that date.

(6) The treatment of—

- (a) a person as registered under Part XA, pursuant to sub-paragraph (2), and
- (b) requirements imposed by local authorities as conditions imposed by the registration authority, pursuant to sub-paragraph (5)

shall be without prejudice to any opinion subsequently formed by the registration authority as to whether the person is or will continue to be a person qualified for registration as a child minder or as a provider of day care, as the case may be, or to any decision the registration authority may subsequently take as to the imposing, removing or varying of conditions upon the registration.

### **Certificates of registration in respect of transferred registrations**

17.—(1) This paragraph applies in relation to any person whose registration is transferred under paragraph 16(2).

(2) The transfer shall not constitute a grant of registration for the purposes of paragraph 6(1) of Schedule 9A.

(3) A certificate issued by a local authority to that person in relation to the original registration and current immediately before the operative date shall, subject to sub-paragraphs (4) and (5) of this paragraph, have effect for all purposes as if issued on the operative date pursuant to paragraph 6(1) of Schedule 9A.

(4) Paragraph 6(2) of Schedule 9A shall not have effect in relation to a certificate to which sub-paragraph (3) refers.

(5) For the purposes of paragraph 6(3) of Schedule 9A and without prejudice to its effect otherwise, the occasion of the first inspection following the operative date by a registered inspector or authorised person of—

- (a) child minding, or
- (b) day care on any premises

provided by a person to whom this paragraph applies shall be taken to constitute a change of circumstances for the purposes of that paragraph in relation to the registration concerned.



### **Duties and powers of local authorities in relation to transfer**

**18.**—(1) The duties of sub-paragraphs (2) and (3) are subject to sub-paragraph (4).

- (2) All information and documents relating to the registration of any person—
- (a) whose registration was, by virtue of paragraph 3(1), to be treated as continuing during the second transitional period; or
  - (b) whose application for registration was granted by a local authority pursuant to a decision under paragraph 7 during the second transitional period

and in the possession of a local authority immediately before the operative date shall be passed by the local authority to the registration authority not later than 21st September 2001.

(3) Any information or document relating to the registration of a person mentioned in sub-paragraph (2) which comes into the possession of the local authority on or after the operative date (other than information or documents sent to them by the registration authority) shall be passed to the registration authority within 7 working days of its receipt.

(4) A local authority may retain any such documents as are necessary to the conduct of any business to which sub-paragraph (6) applies, for such period as is reasonably necessary to conclude that business. In that event, the authority must, within the relevant time limit supply to the registration authority, at its own expense, a good copy of each document retained.

(5) A local authority may, on reasonable notice in writing to the registration authority, inspect and take copies of any such documents as have passed to the registration authority under this paragraph and are necessary to the conduct of any business to which sub-paragraph (6) applies.

- (6) This paragraph applies to—
- (a) the completion of any process begun under section 77 or paragraph 10 before the operative date; and
  - (b) the continuance of any legal proceedings instituted under or in relation to Part X of this Order.

### **Section 71 applications in progress at the operative date**

**19.**—(1) This paragraph applies where an application for registration was made to a local authority under section 71 and by the operative date registration has been neither granted nor refused by the local authority.

(2) With effect from the operative date and subject to sub-paragraph (5), the application shall be treated as having been duly made under section 79E.

(3) All information and documents relating to the application in the possession of the local authority immediately before the operative date shall be passed by the local authority to the registration authority by 10th September 2001.

(4) Any information or document relating to the application received by the local authority on or after the operative date (other than information or documents sent to them by the registration authority) shall be passed to the registration authority within 3 working days of its receipt.

(5) The registration authority may make any enquiry, and require the applicant to provide any information, that it considers reasonably necessary, having regard in particular to any prescribed requirements as to the contents of applications under section 79E.

(6) Payment by the applicant to the local authority before the operative date of the fee required under paragraph 1(3) of Schedule 9 to accompany the application shall be taken to discharge in full the fee payable under section 79F in relation to the application.

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### **Persons exempt or not required to register under section 71**

**20.**—(1) The provisions of this paragraph shall have effect in the case of a person who, immediately before the appointed day was providing child care and was either

- (a) exempt from the requirement to register under section 71, or
- (b) a person to whom sub-paragraph (2) applies; or
- (c) otherwise not required to register in respect of the child care he was providing

but who, under the terms of section 79D, may not continue to provide the child care after the appointed day unless he is registered to do so.

(2) This sub-paragraph applies to a person who was unregistered on account of his being disqualified from registration under Part X or paragraph 6 and who was providing day care pursuant to the written consent of a local authority under paragraph 2(4) of Schedule 9.

(3) Subject to sub-paragraph (4), section 79D shall not apply to him in relation to that child care before 1st April 2002.

(4) If, before 1st April 2002, the person has duly made application to be registered under Part XA in relation to that child care, section 79D shall not apply to him in that respect—

- (a) until such time as the application is either granted or refused; and
- (b) if the application is refused—
  - (i) if an appeal is brought, until it is finally determined or abandoned; or
  - (ii) otherwise, until the expiry of the time within which an appeal may be brought against the refusal or until the person notifies the registration authority that he does not intend to appeal.

### **Steps taken under Part XA during the first transitional period**

**21.** Paragraphs 22 and 23 below shall have effect through the first transitional period.

**22.** Where an order is made under section 79K, the registration authority shall serve on the registered person, as soon as is reasonably practicable after the making of the order—

- (a) a copy of the order;
- (b) a copy of any written statement of the authority's reasons for making the application for the order that supported that application; and
- (c) notice of any right of appeal conferred by paragraph 24.

**23.**—(1) A step of a kind mentioned in subsection (1)(b) or (c) of section 79L shall not take effect before the expiry of the time within which an appeal may be brought under paragraph 24 or, where such an appeal is brought, before its determination.

(2) Paragraph (1) does not prevent a step from taking effect before the expiry of the time within which an appeal may be brought under paragraph 24 if the person concerned notifies the registration authority in writing that he does not intend to appeal.

### **Appeals under this Order and Part XA during the first transitional period**

**24.**—(1) This paragraph shall have effect throughout the first transitional period.

(2) An appeal against—

- (a) the taking of any step mentioned in section 79L(1) or paragraph 10; or
- (b) an order under section 79K of that Act or paragraph 14,

shall lie to the court(4)

- (3) On an appeal, the court may—
  - (a) confirm the taking of the step or the making of the order or direct that it shall not have, or shall cease to have effect; and
  - (b) impose, vary or cancel any condition.
- (4) The following provisions, namely
  - (a) sections 92 (jurisdiction of the courts), 93 (rules of court) and 94 (appeals) and Schedule 11 (jurisdiction);
  - (b) the Children (Allocation of Proceedings) Order 1991(5) (“the Order”);
  - (c) the Family Proceedings Courts (Children Act 1989) Rules 1991(6) (“the Rules”)

shall have effect in relation to proceedings under paragraph 14 and this paragraph as if—

- (i) the paragraphs were provisions of the 1989 Act; and
- (ii) Article 3(1)(m) of the Order referred to proceedings under the paragraphs; and
- (iii) Rule 2(5)(a) referred to paragraph 14; and
- (iv) for the purposes of the Rule 29, Schedule 1 and Schedule 2, references to section 77(6) were references to that section and to this paragraph.

#### **Saving for appeals in progress at the operative date**

25. The coming into effect of sections 79K(5) and 79L(6) and (7) shall not affect any appeal commenced before that date under paragraph 24.

#### **Inspections during the third transitional period**

26.—(1) This paragraph applies, during the third transitional period.

(2) A person authorised by the registration authority under section 79U(5) is referred to in this paragraph as an “authorised person”.

(3) In the event that regulations are in force under section 79Q(2) prescribing the intervals at which child minding provided in England by a registered person is to be inspected by a registered inspector, the Chief Inspector shall secure that it is inspected at the same intervals by an authorised person.

(4) In the event that regulations are in force under section 79Q(3) prescribing the intervals at which day care provided in England by a registered person on any premises is to be inspected by a registered inspector, the Chief Inspector shall secure that it is inspected at the same intervals by an authorised person.

(5) Subsections (4), (6) and (7) of section 79Q and section 79R shall have effect in relation to an inspection for which sub-paragraph (3) or (4) provide as if it were an inspection under section 79Q.

#### **Provisions relating to inspection during the fourth transitional period**

27.—(1) The provisions of paragraphs 28 to 32 shall apply during the fourth transitional period.

(2) For the purposes of paragraphs 28 to 32 “register” means enter on the register established for the purposes of section 79P(1); and cognate expressions shall be interpreted accordingly.

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(4) By section 92 of the 1989 Act, which has effect in relation to paragraph 24 by virtue of paragraph 24(4), “the court” means the High Court a county court or a magistrates' court. The effect of the application of Article 3(1)(m) of the Children (Allocation of Proceedings) Order 1991 (S.I. 1991/1677) is to allocate proceedings under article 6 of the magistrates' court.

(5) S.I. 1991/1677, to which there are no relevant amendments.

(6) S.I. 1991.1395; relevant amending instruments are S.I. 1992/2068, 1994/3156 and 1997/1895.

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(3) References in paragraphs 28 to 31 to paragraphs in Schedule 26 shall be read subject to the following modifications:

- (a) references to registered nursery education inspection shall be read as references to registered early years child inspectors;
- (b) references to inspections under paragraph 6 of that Schedule shall be read as references to inspections under section 79Q (and references to the functions of a registered nursery education inspector under paragraph 6 shall be interpreted accordingly);
- (c) references to the registration of a person under paragraph 6 of that Schedule shall be read as references to the registration of a person under subsection 1 of section 79P; and
- (d) in paragraph 10(2), for the words from “to a tribunal” to the end, there shall be substituted “to the Tribunal established under section 9 of the Protection of Children Act 1999”.

### **Registration of early years child care inspectors**

**28.**—(1) On 2nd September 2002, subject to sub-paragraph (4), the Chief Inspector shall register any person to whom sub-paragraph (2) applies.

(2) This paragraph applies to any person—

- (a) who, on 2nd September 2002, is an employee of the Chief Inspector; and
- (b) who, during the third transitional period, was appraised by the Chief Inspector against the criteria laid down in paragraph 8(3) of Schedule 26 and appeared to the Chief Inspector to satisfy those criteria; and
- (c) of whom the Chief Inspector is, on 2nd September 2002, satisfied that none of the conditions in paragraph 9(2) of Schedule 26 is met.

(3) The Chief Inspector shall thereafter register only those persons who are employees of the Chief Inspector and who appear to him to satisfy the criteria in paragraph 8(3) of Schedule 26.

(4) Nothing in this paragraph shall require the Chief Inspector to register any person who fulfils the conditions for registration contained here if, in the view of the Chief Inspector the need for registered inspectors, or as the case may be the need for registered inspectors in the location in which the person is employed is already adequately met.

### **Conditions attaching to registration of inspectors**

**29.**—(1) The Chief Inspector may register a person under paragraph 28 subject to such conditions as he considers it appropriate to impose.

(2) Conditions imposed under sub-paragraph (1) may be conditions applying generally in relation to all cases, or particular classes of case, or such conditions together with specific conditions applying in the particular case.

(3) Where a person is registered subject to conditions imposed under sub-paragraph (1), he shall be taken to be authorised to act as a registered inspector only so far as those conditions permit.

(4) The Chief Inspector may, as he considers it appropriate,—

- (a) remove conditions that have been imposed under sub-paragraph (1); or
- (b) if a condition of paragraph (5) is met, vary any condition subject to which the registration of an inspector has effect or impose conditions or, as the case may be, further conditions upon that registration.

(5) The conditions are—

- (a) that he is satisfied that—

- (i) any of the conditions set out in paragraph 9(2) of Schedule 26 are satisfied with respect to that inspector; but
  - (ii) in the circumstances of the case it would be appropriate not to remove the name of the inspector from the register; or
- (b) that it would otherwise be in the public interest for him to do so.
- (6) Nothing done by the Chief Inspector pursuant to sub-paragraph (4) shall prejudice any subsequent consideration or action by him under that sub-paragraph or under paragraph 30.

### **Cessation of registration**

**30.**—(1) If the Chief Inspector is satisfied that any of the conditions mentioned in sub-paragraph (2) is satisfied with respect to a registered inspector he may remove the name of that inspector from the register.

(2) The conditions are—

- (a) any of the conditions set out in paragraph 9(2) of Schedule 26; or
- (b) that the inspector has ceased to be employed by the Chief Inspector.

### **Appeals in relation to registration of inspectors**

**31.**—(1) Any person who is aggrieved by—

- (a) the imposition or variation of any condition subject to which he is registered, or
- (b) the removal of his name from the register

may appeal against the Chief Inspector's decision.

(2) Sub-paragraphs (2) to (5) of paragraph 10 of Schedule 26 shall apply in relation to any appeal under sub-paragraph (1).

### **Inspections by authorised persons during the fourth transitional period**

**32.**—(1) The requirement on the Chief Inspector under section 79Q(2) or (3) to secure that any child minding, or, as the case may be, day care is inspected by a registered inspector at prescribed intervals shall be treated as met in any case if he secures that the child minding or day care is inspected by an authorised person.

(2) Subsections (4), (6) and (7) of section 79Q and section 79R shall have effect in relation to an inspection by an authorised person as if it were an inspection by a registered inspector under section 79Q.