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STATUTORY INSTRUMENTS

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**2008 No. 1722**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

The Childcare (Provision of Information About  
Young Children) (England) Regulations 2008

<i>Made</i>	- - - -	<i>30th June 2008</i>
<i>Laid before Parliament</i>		<i>8th July 2008</i>
<i>Coming into force</i>	- -	<i>1st September 2008</i>

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by section 537A of the Education Act 1996(1), and sections 99(1) and 104(2) of the Childcare Act 2006(2):

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Childcare (Provision of Information About Young Children) (England) Regulations 2008 and come into force on 1st September 2008.

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

**Interpretation**

2. In these Regulations—

“the Act” means the Childcare Act 2006;

“the Chief Inspector” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills(3);

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(1) 1996 c. 56. Section 537A was inserted by section 20 of the Education Act 1997 (c. 44), and substituted by paragraph 153 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31). By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the powers conferred by this section are exercisable by the Secretary of State in relation to England. See section 579(1) for the definitions of “prescribed” and “regulations”.

(2) 2006 c. 21. Section 99 of the Childcare Act 2006 is modified by section 100(2) and (3) of that Act until section 7 of the Act comes into force. See section 99(9) of that Act for the definitions of “prescribed” and “regulations”.

(3) The office of Her Majesty’s Chief Inspector of Education, Children’s Services and Skills is established by section 113 of the Education and Inspections Act 2006 (c. 40).

“funded early years provision” means early years provision which is available free of charge in pursuance of the duty imposed by section 7 of the Act (duty to secure prescribed early years provision free of charge)(4);

“local authority” has the same meaning as “English local authority” in section 106 of the Act;

“special educational needs” has the same meaning as in section 312 of the Education Act 1996(5).

### **Prescribed person under section 99(2)(b) of the Act**

3. A local authority in whose area funded early years provision is provided is a prescribed person for the purposes of section 99(2)(b) of the Act (provision of information about young children: England).

### **Provision of information by a provider of funded early years provision to a relevant person under section 99(1) of the Act**

4.—(1) The information set out in Parts 1 and 2 of the Schedule is prescribed information for the purposes of section 99(1) of the Act.

(2) A person falling within section 99(1)(a) of the Act who provides funded early years provision, when required to do so by the relevant person, must provide to that person each item of information set out in Part 1 or 2 of the Schedule that is requested.

(3) A person falling within section 99(1)(b) of the Act, when required to do so by the relevant person, must provide to that person each item of information set out in Part 1 of the Schedule that is requested.

(4) When providing any item of information set out in the Schedule, a person referred to in paragraph (2) or (3) must also provide—

- (a) the early years reference number allocated to the provider by the Department for Children, Schools and Families;
- (b) the early years unique reference number or other identifier allocated to the provider by the Chief Inspector on registration; and
- (c) (if known) the local authority code allocated by the Department for Children, Schools and Families to the local authority in whose area the funded early years provision is provided.

### **Prescribed persons under section 99(3)(b) of the Act**

5. The following are prescribed persons for the purposes of section 99(3)(b) of the Act—

- (a) the Chief Inspector;
- (b) a local authority providing financial assistance under section 8 of the Act in respect of funded early years provision, if different from the local authority prescribed at regulation 3; and
- (c) the proprietor of a school at which the child is a registered pupil(6).

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(4) Section 7 of the Childcare Act 2006 requires an English local authority to secure that early years provision of a prescribed description is available free of charge for prescribed periods, for children of a prescribed age. Section 8 of that Act gives an English local authority powers in relation to the provision of childcare.

(5) Section 312 of the Education Act 1996 was amended by paragraph 23 of Schedule 7 to the Education Act 1997 (c. 44); by paragraph 71 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31); by paragraph 56 of Schedule 9 to the Learning and Skills Act 2000 (c. 21) and by paragraph 3 of Schedule 1 to the Education and Inspections Act 2006.

(6) See section 434(5) of the Education Act 1996 for the definition of “registered pupil”.

### **Prescribed persons under section 99(4)(b) of the Act**

6. The following are prescribed persons for the purposes of the provision of individual child information pursuant to section 99(4)(b) of the Act—

- (a) a person who provides early years provision to the child;
- (b) the Chief Inspector; and
- (c) the Qualifications and Curriculum Authority<sup>(7)</sup>.

### **Prescribed persons under section 99(6)(c) of the Act**

7. The following are prescribed persons for the purposes of section 99(6)(c) of the Act—

- (a) a local authority providing financial assistance under section 8 of the Act in respect of funded early years provision, if different from the local authority prescribed in regulation 3; and
- (b) the proprietor of a school at which the child is a registered pupil.

### **Prescribed categories under section 99(4)(c) of the Act**

8. For the purposes of section 99(4)(c) of the Act, the prescribed categories are—

- (a) persons conducting research into the educational achievements of children and who require individual child information for that purpose; and
- (b) persons having access to a database established and operated by the Secretary of State under section 12 of the Children Act 2004<sup>(8)</sup>.

### **Amendment of the Education (Individual Pupil Information) (Prescribed Persons) Regulations 1999**

9.—(1) The Education (Individual Pupil Information) (Prescribed Persons) Regulations 1999<sup>(9)</sup> are amended in accordance with paragraph (2).

(2) In regulation 3(1)—

- (a) at the end of sub-paragraph (a), omit “and”;
- (b) at the end of sub-paragraph (b), insert “and”; and
- (c) after sub-paragraph (b), insert—
  - “(c) persons having access to a database established and operated by the Secretary of State under section 12 of the Children Act 2004.”.

### **Revocations**

10. The following Instruments are revoked—

- (a) The Education (Provision of Information About Young Children) (England) Regulations 2007<sup>(10)</sup>;
- (b) The Education (Provision of Information About Young Children) (England) (Amendment) Regulations 2007<sup>(11)</sup>; and

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(7) The Qualifications and Curriculum Authority was established by section 21 of the Education Act 1997.

(8) 2004 c. 31. Section 12 was amended by paragraph 43 of Schedule 2 to the Childcare Act 2006.

(9) S.I. 1999/903, amended by S.I. 2004/1377, S.I. 2006/1505 and S.I. 2007/2050.

(10) S.I. 2007/712.

(11) S.I. 2007/3436.

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- (c) paragraph 63 of Part 2 of the Schedule to the Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007(12).

30th June 2008

*Beverley Hughes*  
Minister of State  
Department for Children, Schools and Families

## SCHEDULE

Regulation 4

### PART 1

1. For each child in the final year of the Early Years Foundation Stage, the total number of points achieved in each of the assessment scales of the Early Years Foundation Stage.

2. In this Part of the Schedule, “assessment scales” has the same meaning as in the “Statutory Framework for the Early Years Foundation Stage” document published by the Department for Children, Schools and Families in May 2008 with ISBN reference number 978-1-84775-128-7(13).

### PART 2

3. Surname.

4. First name, or if more than one, each first name.

5. Date of birth.

6. Address and postcode of the home where the child normally resides.

7. Ethnic group.

8. Gender.

9. Whether the child has special educational needs.

10. Number of hours of funded early years provision that the child receives per week.

11. Total number of hours of early years provision that the child receives per week.

12.—(1) Where the person provides funded early years provision to the child in more than 38 weeks in the funding period, the number of hours of funded early years provision which the child receives from that person during the period starting with 1st January and ending with 31st March in the calendar year in which the information is requested.

(2) In this paragraph “the funding period” means the period, being no longer than 12 months, of arrangements under section 8 of the Act (powers of a local authority in relation to the provision of childcare) between the person providing funded early years provision and a local authority under which the person provides such early years provision.

13. Whether English is not the child’s first language.

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(13) See in particular Appendix 1 of the document. For the meaning of “the Early Years Foundation Stage”, see section 39 of the Childcare Act 2006.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations consolidate Instruments specified in regulation 10, which are being revoked. They also comprise amendments consequential to the coming into force of section 7 (duty to secure prescribed early years provision free of charge) of the Childcare Act 2006 (“the Act”). Apart from regulation 9, provision no longer needs to be made under section 537A of the Education Act 1996 (provision of information about individual pupils), as the modifications made to section 99 of the Act (provision of information about young children: England) by virtue of section 100 (provision of information about young children: transitory provisions) no longer apply. Section 99 is modified by section 100 of the Act until section 7 comes into force.

The Regulations prescribe the persons and categories of persons who can collect and exchange information about children receiving funded early years provision.

Regulation 4 requires providers of funded early years provision to supply prescribed information, set out in Parts 1 and 2 of the Schedule, to the local authority in whose area the funded early years provision is provided.

Regulations 5 to 8 prescribe certain persons or categories of persons under section 99 of the Act with whom individual child information can be shared.

Regulation 9 inserts into the Education (Individual Pupil Information) (Prescribed Persons) Regulations 1999 (S.I. 1999/903 as amended) the provision, insofar as it relates to section 537A of the Education Act 1996, made at regulation 15 of the Education (Provision of Information About Young Children) (England) Regulations 2007 (S.I. 2007/712 as amended). Those Regulations are revoked by these Regulations.

Copies of the “Statutory Framework for the Early Years Foundation Stage” document referred to in Part 1 of the Schedule can be obtained from DCSF Publications, PO Box 5050, Sherwood Park, Annesley, Nottingham NG15 0DJ (telephone: 0845 60 222 60; email [dcsf@prolog.uk.com](mailto:dcsf@prolog.uk.com); reference: 00267-2008BKT-EN). It is also available at [www.standards.dcsf.gov.uk/eyfs](http://www.standards.dcsf.gov.uk/eyfs).

An impact assessment has not been carried out, as no impact on the private, voluntary or public sectors is foreseen.