

Child Care Act 1991 (Early Years Services) (Childminding Services) Regulations 2024 - Explanatory Guidance

This is DCEDIY guidance for the regulations and is not part of the Regulations.

The Regulations set out the arrangements for the registration and inspection of childminding services. This guidance explains the intention of the regulations.

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Part I

Preliminary and General

Regulation 1 - Title and commencement

The regulation of Childminding is provided for in the Child Care Act 1991 which was recently amended by the Child Care (Amendment) Act 2024. Early Years Services are defined in the Act as Childminding Services, Preschool Services and School Age Childcare Services.

These regulations will come in to force on 30 September 2024 and from this date, childminders will be able to register their Childminding service with Tusla Early Years Inspectorate (EYI) and avail of state subsidies and support. Initially childminders will register without providing vetting of household members. The regulation relating to the vetting of household members over the age of 16 will commence on the 1st February 2025.

The Act has been amended to allow for transitional arrangements in relation to the registration of childminders. During the transitional period childminders can choose to operate without registration provided they operate in accordance with the previous limits on maximum numbers for childminding services exempt from registration, but once the transitional period ends (Autumn 2027) all childminders will be required to register with Tusla (EYI).

Regulation 2 - Interpretation

This regulation provides the explanation for the terms that are used in these regulations.

The term “childminder” is understood to mean the “registered provider” in these regulations. In order to register as a childminding service, a childminder must provide a paid service for a minimum of 2 hours a day in their own home (principal residence) by themselves for children under the age of 15. The children may be relatives of the childminder but do not include the childminder’s own children (except that a childminder’s own children may affect the maximum number children that can be cared for – see Regulation 12).

The primary legislation defines the term “registered provider”. The term “home” is understood to mean the “premises” where the childminding service is provided. This must be the principal residence of the childminder and not for example a second home or a holiday home.

Regulation 3 – Prescribed early years service

A standard regulation connecting these regulations to Part VIIA of the Child Care Act 1991.

Regulation 4 – Fees

This regulation specifies the fee required to apply for registration and the annual fee required. These fees are paid to Tusla EYI. Tusla EYI will remind childminders when the fees need to be paid. The fee goes towards the cost of registration, the maintenance of the register and inspection by Tusla EYI. One fee is paid each year. No annual fee is required in the year that a registration fee has been paid.

Part II

Registration and Register

Regulation 5 - Registration of childminding service

This regulation sets out what is needed to apply for registration and renewal of registration. This also sets out that anyone proposing to or operating a childminding service must be at least 18 years of age. A specific application form must be used and it is attached to these regulations. This will be available electronically through Tusla EYI's website and the application must be made through that system. The regulation also includes a list of documents that must be provided with the application. Additional guidance on how to complete the application form will be made available by Tusla Early Years Inspectorate (EYI). All childminders will have the opportunity to apply for registration from 30 September 2024.

A transitional period for registration of childminders will be in operation for 3 years from the initial date until 29 September 2027. During the transitional period, childminders can choose to operate without registration but once the transitional period ends (on 29 September 2027) all childminders will be required to register. If you choose not to register within the transitional period and still operate as a childminder, you must abide by the existing limitations set on maximum number of children (i.e. up to three pre-school children and up to six children of any age). After the end of the transitional period it will then be a requirement for a childminding service to be registered. Tusla will require 3 months to process complete applications.

Where possible, references for the childminder should be from a recent employer or from parents or guardians of children that are or have been in their care. Tusla EYI have developed a template reference which you may use for this. If the childminder does not have a recent employer or has not had children in their care, references should be provided from a suitable, reputable person. A reputable person should be independent, unbiased and not a family member. Examples of a reputable person would include a teacher, a doctor, a member of An Garda Síochána and others. Further guidance on references will be provided by Tusla. All references should be in writing, dated and signed by the referee, and should contain the address and phone number of the referee.

As registration will be valid for a period of 3 years, this regulation also sets out how a childminder can apply to "renew" their registration. This is a shorter process that includes an application form, current Garda vetting documentation and proof of insurance.

The regulation then sets out how Tusla assess the application. This may include:

- reviewing any document it already holds in relation to the application (either from previous applications or inspections),

- Tusla will visit the home where the childminding service will be provided, and
- Tusla will assess the suitability of the person applying to be a registered childminder (the details of this assessment are set out at regulation 10).

Regulation 6 - Register

This regulation sets out the information that will be publicly available on the Tusla register. Tusla is required to make this information available and it will be available on the Tusla website. In addition to the childminder's name and the date of registration, the Child Care Act 1991 also requires that the address, the age range of children, any conditions attached to registration and the number of children catered for by the childminder are also stated on the register.

Regulation 7 - Certificate of registration

This Regulation sets out that Tusla must provide each childminder with a certificate of registration. How the certificate is shared with parents will be a matter for the childminder but a copy of the certificate could either be in the handbook or emailed to parents. If a childminder receives a new certificate they must share this with the parents. Childminders are not required to display this certificate but they may choose to. If the original certificate is not displayed in a prominent position it must be available for inspection by parents or by Tusla. Childminders are required to share this certificate with all parents currently attending the service and all prospective parents.

Regulation 8 - Application to vary terms of registration

This regulation sets out the process to be followed when a childminder needs to change any of the details of their registration, for example, if they move house and need to update the address of the service. All changes relating to information that is contained on the register must be approved by Tusla EYI before being implemented.

Childminders can have multiple emergency persons. However, any changes to add an additional emergency person require at least 30 days' notice to Tusla EYI, and must be approved by Tusla. This time period commences once Tusla EYI receive the final vetting disclosure, not when the application for vetting is made.

Any changes to remove an emergency person must be notified to Tusla EYI in writing no later than 28 days after they cease to provide emergency cover.

Schedule 3 contains the application form that childminders must use to apply to Tusla for the changes.

This regulation also sets out the process to be followed when a childminder ceases operating a childminding service. Childminders must give written notice to Tusla EYI within 28 days of closing their service.

Part III

The Childminder

Regulation 9 - Training

All childminders applying to Tusla for registration must complete childminder specific pre-registration training.

Childminders must complete the Introduction to Children First eLearning programme before applying for registration, and must provide Tusla with their certificate of completion. In addition, childminders are mandated persons under the Children First Act 2015. The Tusla website provides further information on the role of mandated persons.

First Aid training is also required for all childminders. Any in-date first aid certificate will be accepted for the purpose of registration.

This regulation also sets out training requirements for childminders after registration. A Quality Development Programme is currently being developed and childminders will have to complete this programme within a specified timeframe.

Regulation 10 - Assessment of suitability

It is important that all persons caring for children are “suitable persons”. Tusla will make an assessment of suitability based on references, vetting and a completed declaration form. They may decide to seek further information by engaging with and if necessary interviewing the childminder. They can use information that they got from inspecting the service and they can use other information they may hold relating to the childminder, for example if the childminder had previously been a registered provider of a centre based service.

The declaration completed by the childminder must confirm that there is no medical reason, known to them, why they cannot operate a childminding service singlehandedly. The declaration is set out in Schedule 4 of the regulations.

Tusla shall also ensure that the person applying for registration is at least 18 years of age.

Part IV

The Childminding Service

Regulation 11 - Health, safety, welfare and development of child

This Regulation sets out that each childminder must safeguard the health, safety and welfare of children in their care whether in the home or on trips outside the home. To achieve this they must have care practices in place that are appropriate for the age and developmental stage of the children. A childminder will have a positive behaviour management policy in place through their Childminding Service Handbook, and a key component of this will be a prohibition on corporal punishment and a commitment that there will not be any practices that are disrespectful, degrading, exploitive, intimidating, emotionally or physically harmful or neglectful in the service.

This regulation also sets out that childminders should consider the well-being, learning, development of the children in their care. A childminder should create and provide access to a homely setting that promotes wellbeing, learning and development taking into account the context of the home and family setting. This also applies where the child is in the care of the childminder outside of the home, for example on outings. Appropriate activities, interaction, materials and equipment, should be nurturing and inclusive. Childminders are not expected to provide a structured educational setting but should seek to support children's early learning and development through the activities and interactions they encourage, complementing the central role that parents play in their children's early learning and development.

This regulation states that the service should operate in line with the Childminding Service Handbook specified in Regulation 16, which means that any policies that are in the Handbook must be followed.

Regulation 12 - Maximum numbers of children

This regulation sets out that Tusla must inform each childminder of the maximum number of children they can have in their care at any one time. This number will take into account all children in the care of the childminder, including their own children under the age of 10 years if those children are in the childminder's care for a period of time during the operation of the childminding service. If a childminder's children are in the home but are being cared for by another adult (e.g. the childminder's partner or the children's grandparent) then they are not counted when determining the maximum number of children permitted in the childminding service.

When making this determination Tusla will consider the application submitted, the premises available (number of rooms and access to outdoor space/play), the ages and developmental stage of the children when setting a maximum number of less than 6. This regulation states that the

maximum number cannot exceed 6 and, of those six children, no more than two should be under the age of 15 months, except in the case of siblings.

Regulation 13 - The home

This Regulation sets out that a childminder's home will need to be safe and secure and suitable for childminding. To assess this Tusla EYI will consider the general safety and security of the home, looking at things like access to doors/garden gates or garden ponds or garages that might have dangerous items in them. The childminder's home needs to be secure, clean, have adequate bathroom facilities and be a smoke-free area. Children should not be exposed to smoking or have access to any areas in the home that people smoke in. While considering the safety and security of the premises, when other businesses are co-located on the premises, such as a farm or a mechanic, this should be considered during the risk assessment and reflected in the policy on Risk Management and Assessment.

Children should not be able to leave the premises unsupervised and visitors to the house should not be left unsupervised with children. It is recognised that this is a family home and as such there is no requirement for special equipment such as small toilets or lowered basins or special tables and chairs. It is expected that children will use the furniture in the home, just as they would in their own home, unless their age and stage requires equipment such as high chairs or booster seats. The bathroom facilities should be accessible to children (e.g. access to a step up if needed).

In relation to cleaning and safety, there should be clear control measures for hazardous materials but this could be as straightforward as keeping these materials in a locked cabinet or in an area of the house that children have no access to.

The areas of the premises that make up the childminding service should be clearly communicated to parents and children. The childminder will confirm to Tusla EYI all the areas of the premises (including outdoor areas) that children have access to when applying to register their service.

A childminder is not required to have an outdoor space on the premises but must be in a position to facilitate regular outdoor play in an easily accessible and safe location. Outdoor play is an important part of any childminding service and childminders are encouraged to facilitate this on a daily basis. Travel to off-site outdoor spaces will need to be risk assessed by the childminder.

The rooms and space available to the children in the home and the accessibility to outdoor space will be considered by Tusla when setting the maximum number of children that can be cared for at any one time.

A childminder must ensure that children attending the childminding service can sleep and rest in a place that is safe and suitable. However, it may be a room that is used by the family at other times e.g. a main bedroom or a study. While in use as a sleep space it should only be used by the sleeping child/children and not accessed by any other member of the household. Childminders should follow their policy on safe sleep and this policy should be developed in line with the Tusla safe sleep guidance for childminders.

A first aid box for children must be kept in a prominent position in the home. Any person providing emergency cover to a childminding service should know where it is kept. A first aid box contents list will be provided to childminders.

Regulation 14 - Supervision

This Regulation provides that the childminder, as a single handed operator, has sole responsibility for the supervision of children attending the service at all times. The childminder may consider the age and developmental needs of the children when determining appropriate supervision. As children will be accessing different spaces within the home, constant supervision by sight may not be feasible. However, the childminder should ensure that they have sight of and / or can hear the children in their care.

A childminder may need to adapt levels of supervision for certain activities or when there are additional risks such as during mealtimes or sensory play or during outings.

As a core part of childminding is integration into the home and family life of the childminder, it is expected that children may interact with other members of the household through daily activities such as eating meals and playing games. These activities will require appropriate supervision by the childminder.

This Regulation also provides that visitors to the house should not be left unsupervised with any children attending the childminding service. A childminder must not leave any child under the supervision of another person (except in an emergency, as covered by regulation 15). This includes not leaving children to go to the shop or to collect another child.

Regulation 15 - Emergency cover

This Regulation sets out that each childminder must have one or more persons available to attend the childminding service in the event of an emergency. These persons must be at least 18 years of age. The circumstances where emergency cover is required are expected to be very rare and would include, for example, a medical emergency where a child or childminder was ill or injured and needed medical attention. The person providing emergency cover is not an assistant and cannot provide holiday cover, they can only be called in for unanticipated emergencies where they would be available to look after the children temporarily and contact parents for collection. The emergency cover person cannot provide cover for longer than the specific day they are required. For example, if a childminder was taken to hospital in the morning, and the parents of a child were not able to collect the child until that afternoon, the emergency cover person may remain until the child is collected on that day. They cannot provide cover the following day.

Any person providing emergency cover for a childminding service will require vetting and this will need to be submitted to Tusla at registration. A childminder must have at least one person available to provide emergency cover but can have more than one. In practice it is common for childminders to have multiple people as emergency cover. A childminder may choose to have a roster of emergency cover to cover the times that the service is operating. Tusla must be provided with a vetting disclosure for any person who is being relied upon by the childminder to provide Emergency Cover.

An emergency person may be another adult residing in the childminder's home or family member residing close by or, alternatively, an emergency person may be a parent of a child attending the childminding service if they live or work close by.

Regulation 16 - The Childminding Service Handbook

This Regulation sets out that a childminder will need to have a "Childminding Service Handbook". This Handbook will contain important information relating to the service that will help Tusla and

parents understand how the childminder operates the service. The necessary contents of the Handbook will be identified by the Minister as appropriate. Childminders will need to operate in line with the essential policies included in the Handbook but can also choose to add additional information if they feel that it is relevant or useful. The handbook should be available to parents, prospective parents and Tusla when requested. The Childminding Service Handbook includes the following policies and information:

- a child safeguarding statement;
- administration of medication;
- authorisation to collect children;
- safe sleep;
- details of the children (e.g. medical information);
- a supervision policy;
- a health and safety policy;
- a risk assessment (including for outings);
- fire safety;
- accidents and incidents;
- infection prevention and control;
- safe internet and technology;
- promoting positive behaviour;
- opening and closing times;
- holiday periods;
- how payments are managed;
- dealing with complaints;
- emergency cover;
- website for the regulations;
- including allergies;
- healthy eating policy.

Regulation 17 - Food and drink

This Regulation sets out the responsibility that childminders have in relation to the availability of food for children attending the childminding service. Childminders should consider the Healthy Ireland, Nutrition Standards for Early Learning and Care Services. Childminders can provide food that is consistent with normal food in a domestic home and childminders are not required to comply with HACCP or be assessed by Environmental Health Officers. Parents should be made aware of the meals and snacks provided by the childminder. The number and type of meals will depend on the length of stay in the service and will be decided by the childminder in consultation with the parents. Childminders should consider the individual needs of children, allergies, cultural preferences, and parental choice.

Regulation 18 - Insurance

This Regulation requires childminders to have insurance. However, a quote for cover will be adequate for the purposes of registration. If a quote is provided, an insurance certificate must be provided before completing registration.

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The childminder's insurance should include the following: public liability insurance, insurance against fire and theft, buildings insurance and insurance for outings.

Part V

Information and Records

Regulation 19 - Record of the child

This Regulation sets out the information that each childminder must keep relating to each child attending the childminding service. This information could be kept either electronically or in hard copy. Parents should be able to view records relating to their children. The information should be easily accessible to any person providing emergency cover. Records should be available for inspection by Tusla. Once a child leaves a service the records relating to that should be retained for a period of 3 years from their leaving date unless there is a requirement in other legislation to keep the regulation for longer. The childminder does not have to complete this for their own children, even if they are counted for the purposes of maximum numbers.

Regulation 20 - Record in relation to the childminding service

This Regulation sets out the information that each childminder must keep relating to their childminding service. Records relating to the child's attendance, any medication administered to a child and details of any accidents or incidents during the operation of the childminding service must be kept by the childminder for a period of 3 years from the date on which the child the record relates to has left the service unless there is a requirement in other legislation to keep the regulation for longer. Records must be available for inspection by Tusla. The childminder does not have to complete this for their own children, even if they are counted for the purposes of maximum numbers. This information could be kept either electronically or in hard copy.

Regulation 21 – Partnership with Parents

This regulation sets out the information that should be provided to parents prior to their children starting out in the service. This will include important information such as the fees, the ages of children catered for, whether there are any pets living in the house, the policies and procedures of the service, the contract for the service and copies of relevant legislation. It is important that the contract explains the expectations of the childminder in particular relating to when a child does not attend due to illness or holidays or when a childminder is ill and temporarily cannot operate the service. The regulation also stipulates that there must be a signed contract in place between the childminder and the parent for all children attending the service. The childminder is not required to have a contract in relation to his or her own children, even if they are counted for the purposes of maximum numbers. The contract provided in the Handbook can be completed by the Childminder.

The Handbook should also advise parents of the arrangements relating to emergency cover, and remind parents that in an emergency where an emergency cover person is called in parents will be expected to collect their children.

Part VI

Notifications and Complaints

Regulation 22 - Notification of incidents

This regulation provides that a childminder must notify Tusla (in writing) within 3 days of becoming aware of certain incidents occurring in the childminding service. Incidents related to missing children should be reported if the child was missing from the home and not just missing within the home. As mandated persons childminders will also be required to report child protection concerns to Tusla. Please refer to Tusla website on how to submit a notification of an incident.

Regulation 23 - Complaints

This Regulation set out the requirements in relation to complaints. A childminder must have a complaints policy and that policy must outline the procedures for making a complaint and how that complaint will be dealt with. The regulation also specifies that complaints must be dealt with in line with the policy. Records of complaints must be kept for a minimum of 3 years. This information could be kept either electronically or in hard copy.

Part VII

Inspection and Enforcement

Regulation 24 - Furnishing of information to Agency

This Regulation makes it a requirement for a childminder to provide Tusla with any information that they deem necessary to enforce the regulations. Tusla may specify the format for this information.

Regulation 25 - Inspection

This Regulation requires Tusla to consider the home and family setting when inspecting childminding services. The regulation also sets out the requirement for Tusla to share their inspection report with the childminder. Tusla will provide further guidance in relation to the process of producing a final report. Tusla may meet with a childminder to discuss the report or may engage by email. Tusla will publish the report on their website once it has been finalised.

Regulation 26 - Enforcement and execution

This Regulation states that Tusla will have responsibility for enforcing these regulations.