

SCHEDULES

SCHEDULE 1

Section 5.

NURSERY EDUCATION GRANTS: INSPECTIONS ETC

Introductory

- 1 In this Schedule—
- (a) “funded nursery education” means nursery education in respect of which the Secretary of State is making (or is to make) grants under arrangements under section 1 of this Act, and
 - (b) “nursery education under consideration for funding” means nursery education in respect of which the Secretary of State is considering whether to make such grants.
- 2 (1) In this Schedule “the Chief Inspector” means—
- (a) as respects nursery education provided in England, Her Majesty’s Chief Inspector of Schools in England, and
 - (b) as respects nursery education provided in Wales, Her Majesty’s Chief Inspector of Schools in Wales.
- (2) In this Schedule references to registered nursery education inspectors are to persons registered under paragraph 8.
- (3) In this Schedule “members of the Inspectorate” means—
- (a) the Chief Inspector,
 - (b) Her Majesty’s Inspectors, and
 - (c) additional inspectors with whom the Chief Inspector has made arrangements to give him assistance under paragraph 2 of Schedule 1 to the Education (Schools) Act 1992.
- (4) In sub-paragraph (3)(b) “Her Majesty’s Inspectors” means—
- (a) as respects nursery education provided in England, Her Majesty’s Inspectors of Schools in England, and
 - (b) as respects nursery education provided in Wales, Her Majesty’s Inspectors of Schools in Wales.

General functions of the Chief Inspector

- 3 The Chief Inspector has the general duty of keeping the Secretary of State informed about—
- (a) the quality and standards of funded nursery education, and
 - (b) the spiritual, moral, social and cultural development of children for whom funded nursery education is provided.

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- 4 When asked to do so by the Secretary of State, the Chief Inspector shall give advice to the Secretary of State on such matters relating to funded nursery education as may be specified in the Secretary of State's request.
- 5 The Chief Inspector may at any time give advice to the Secretary of State on any matter connected with—
- (a) funded nursery education generally, or
 - (b) funded nursery education, or nursery education under consideration for funding, provided at particular premises.

Inspections

- 6 (1) The Chief Inspector—
- (a) shall secure that funded nursery education provided at any premises is inspected by a registered nursery education inspector at such intervals as may be prescribed,
 - (b) shall secure that funded nursery education, or nursery education under consideration for funding, provided at any premises is inspected by a registered nursery education inspector at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
 - (c) may secure that funded nursery education, or nursery education under consideration for funding, provided at any premises is inspected by a registered nursery education inspector at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 9 of the Education (Schools) Act 1992 (inspections of certain schools by inspectors registered under that Act) applies.
- (3) The Chief Inspector may comply with sub-paragraph (1) either by organising inspections or by making arrangements with others for them to organise inspections.
- (4) Where an inspection under this paragraph is to be undertaken of nursery education provided at premises which are also liable to inspection under section 76 of the Children Act 1989 (inspection by person authorised by local authority of premises on which child minding is being carried on or day care is being provided for children), the person organising the inspection under this paragraph shall, before that inspection is undertaken, consult the local authority with power to authorise an inspection of the premises under that section.
- (5) In prescribing the intervals mentioned in sub-paragraph (1)(a) the Secretary of State may make provision as to the period within which the first inspection of education provided at any premises is to take place.
- (6) A requirement such as is mentioned in sub-paragraph (1)(b) may be imposed in relation to particular premises or a class of premises.
- 7 A person conducting an inspection under paragraph 6 shall report on the quality and standards of the nursery education provided and, so far as it is reasonably practicable to do so, on the spiritual, moral, social and cultural development of the children for whom the education is provided.

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Registration of nursery education inspectors

- 8 (1) Her Majesty's Chief Inspector of Schools in England shall establish and maintain a register of nursery education inspectors for England and Her Majesty's Chief Inspector of Schools in Wales shall establish and maintain a register of nursery education inspectors for Wales.
- (2) The Chief Inspector—
- (a) shall give guidance to registered nursery education inspectors and such other persons as he considers appropriate in connection with inspections under paragraph 6 and the making of reports of such inspections, and
 - (b) shall keep under review the system of inspections under paragraph 6 and, in particular, the standard of such inspections and of the reports made of them.
- (3) The Chief Inspector shall not register a person under this paragraph unless, having regard to any conditions that he proposes to impose under sub-paragraph (5)(c), it appears to him that the person—
- (a) is a fit and proper person for discharging the functions of a registered nursery education inspector, and
 - (b) will be capable of conducting inspections under paragraph 6 competently and effectively.
- (4) An application for registration under this paragraph—
- (a) shall be made in such manner, and be accompanied by such particulars, as the Chief Inspector may direct, and
 - (b) shall be accompanied by such fee (if any) as may be prescribed.
- (5) On an application duly made under this paragraph the Chief Inspector may—
- (a) register the applicant,
 - (b) refuse to register him, or
 - (c) register him subject to such conditions as the Chief Inspector considers it appropriate to impose.
- (6) Conditions imposed under sub-paragraph (5)(c) 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.
- (7) Where a person is registered subject to conditions imposed under sub-paragraph (5)(c), he shall be taken to be authorised to act as a registered nursery education inspector only so far as those conditions permit.
- (8) The period for which any registration is to have effect shall be determined by the Chief Inspector and shall be entered in the register kept by him.
- (9) Nothing in sub-paragraph (8) is to be taken as preventing a registered nursery education inspector from applying for a fresh registration to take effect immediately on the expiry of his current registration.
- 9 (1) If the Chief Inspector is satisfied that any of the conditions mentioned in sub-paragraph (2) is satisfied with respect to a nursery education inspector registered in his register, he may remove the name of that inspector from that register.
- (2) The conditions are that—
- (a) he is no longer a fit and proper person for discharging the functions of a registered nursery education inspector under paragraph 6,

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- (b) he is no longer capable of conducting inspections under that paragraph competently and effectively,
 - (c) there has been a significant failure on his part to comply with any condition imposed under paragraph 8(5)(c) subject to which his registration has effect,
 - (d) he has knowingly or recklessly produced a report of an inspection under paragraph 6 which is, in whole or in part, seriously misleading.
- (3) The Chief Inspector may vary any condition subject to which the registration of an inspector has effect, or vary the registration of an inspector by imposing a condition subject to which it will have effect, if he is satisfied—
- (a) that he is authorised by sub-paragraph (1) to remove the name of the inspector from his register, or
 - (b) that it would otherwise be in the public interest for him to do so.
- (4) References in this Schedule to a condition imposed under paragraph 8(5)(c) include a condition imposed under sub-paragraph (3).
- (5) Either Chief Inspector may, in exercising his functions under this paragraph with respect to a registered nursery education inspector, have regard to any action taken by the other Chief Inspector with respect to that inspector.
- 10 (1) Any person who is aggrieved by—
- (a) the refusal of the Chief Inspector to renew his registration under paragraph 8,
 - (b) the imposition or variation of any condition subject to which he is registered under that paragraph, or
 - (c) the removal of his name from the register under paragraph 9,
- may appeal against the Chief Inspector’s decision.
- (2) An appeal under sub-paragraph (1) shall be made to a tribunal with the same constitution as a tribunal to hear an appeal under section 12 of the Education (Schools) Act 1992; and paragraph 2 (procedure) and paragraph 3(1) (staff) of Schedule 3 to that Act apply to tribunals to hear appeals under sub-paragraph (1) as they apply to tribunals to hear appeals under that section.
- (3) No decision against which an appeal may be made under sub-paragraph (1) shall have effect until—
- (a) any appeal against it which is duly made is disposed of, or
 - (b) the period within which an appeal may be made expires without an appeal being made.
- (4) Sub-paragraph (3) shall not apply where the Chief Inspector—
- (a) is satisfied that the circumstances of the case are exceptional and justify the decision in question taking effect immediately or earlier than would otherwise be the case, and
 - (b) notifies the person concerned to that effect.
- (5) On determining any appeal under this paragraph, the tribunal may—
- (a) confirm, reverse or vary the decision appealed against, or
 - (b) remit the case to the Chief Inspector with directions as to the action to be taken by him.

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Training

- 11 (1) A registered nursery education inspector shall not conduct an inspection under paragraph 6 unless he has, in the opinion of the Chief Inspector, satisfactorily completed a course of training provided by, or complying with arrangements approved by, the Chief Inspector.
- (2) Sub-paragraph (1) shall not apply in such circumstances as may be specified, either generally or in relation to a particular case or class of case, by the Chief Inspector.
- (3) Where the Chief Inspector provides such training he may charge such fees as are reasonable for the purpose of recovering the whole, or part, of the cost of providing it.

Impartiality

- 12 A person shall not undertake an inspection under paragraph 6 of nursery education provided by a person at any premises, or accompany a person undertaking such an inspection, if he has, or has at any time had, any connection with—
- (a) the person by whom the education is provided (or, where it is provided by a body, any member of the body), or
- (b) any person employed by that person (whether or not at the premises), of a kind which might reasonably be taken to raise doubts about his ability to act impartially.

Reports of inspections

- 13 (1) Where a person has conducted an inspection under paragraph 6 he shall make his report in writing to the Chief Inspector within such period as may be prescribed, subject to any extension not exceeding three months which the Chief Inspector may consider necessary.
- (2) Once the report of an inspection has been made to the Chief Inspector under sub-paragraph (1) he shall without delay send a copy of it to such authorities and persons as may be prescribed.

Annual reports of the Chief Inspector

- 14 The annual reports of the Chief Inspector required by paragraph (a) of sections 4 and 8 of the Education (Schools) Act 1992 to be made to the Secretary of State shall include an account of the exercise of the functions imposed or conferred on him by this Schedule; and the power conferred by paragraph (b) of those sections to make other reports to the Secretary of State includes a power to make reports with respect to matters which fall within the scope of his functions by virtue of this Schedule.

Reserve powers of the Chief Inspector

- 15 The Chief Inspector may, in any case where it appears to him to be appropriate to do so, secure that any inspection under paragraph 6 is conducted not by a registered nursery education inspector but by one or more members of the Inspectorate.
- 16 If the Chief Inspector elects in the case of an inspection within paragraph (b) or (c) of sub-paragraph (1) of paragraph 6 that the inspection shall be treated as if it were an inspection within paragraph (a) of that sub-paragraph, the inspection shall be so treated.

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- 17 Where an inspection is being conducted by a registered nursery education inspector under paragraph 6, the Chief Inspector may arrange for the inspection to be monitored by one or more members of the Inspectorate.