

LEARNING AND SKILLS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part III - Inspections in England

Chapter I: Sections 52 to 59 and Schedule 6: the Adult Learning Inspectorate

95. **Section 52 and Schedule 6** provide for the establishment of the new Non-Departmental Public Body - the Adult Learning Inspectorate (ALI). ALI will have nine members appointed by the Secretary of State. The Secretary of State will appoint one member as chairman and another as chief officer, and the latter will be known as the Chief Inspector of Adult Learning. The Chairman and the Chief Inspector of Adult Learning cannot be the same person. This section also allows the Secretary of State to make grants to the ALI with such conditions as he sees fit.
96. **Schedule 6** makes provision about members and staff of the Inspectorate and about administrative matters, including salaries, pensions and accounts. It permits the Secretary of State to remove any member from office on the grounds of persistent non-attendance, inability or unfitness for office. The Inspectorate is permitted to set up committees and to delegate functions to the Chairman, the chief officer or to committees. Committees may include persons who are not members of the Inspectorate. The Schedule also sets out provisions as to members' interests and their conduct if a conflict of interest should arise. The Inspectorate will not be an agent of the Crown and its staff will not be civil servants.
97. **Section 53** sets out the Inspectorate's remit to inspect further education for people aged 19 and over funded by the LSC or an LEA; training provided wholly or partly on employers' premises for people aged over 16, which is wholly or partly funded by the LSC; and training funded (through the Employment Service) under the Employment and Training Act 1973. There is a regulation-making power to enable other education and training to be prescribed as being within the remit. The regulations may bring training of and for further education teachers and lecturers within ALI's remit.
98. **Section 54** places a duty upon the Inspectorate to keep the Secretary of State informed about the quality, standards and value for money of the provision of education and training which are within its remit. It also places a duty upon the Chief Inspector of Adult Learning to conduct inspections both at intervals and on the request of the Secretary of State. The Secretary of State may specify other functions for the Chief Inspector or the Inspectorate in connection with their remit and both the Chief Inspector and the Inspectorate are required to have regard to specified aspects of Government policy.
99. **Section 55** provides that where an inspection is required by the Secretary of State, the Chief Inspector of Adult Learning must make a written report to the Secretary of State where requested to do so. The report must state whether the quality of provision is adequate to meet the reasonable needs of those receiving it. The Chief Inspector must send copies of any such inspection report to various listed parties and make arrangements for publication.

100. **Section 56** confers on the Inspectorate powers to give advice to the Secretary of State and to inspect and make reports upon provision within its remit. It also provides the Inspectorate with a power to inspect other training on request, for instance, that which is funded wholly by an employer. In such circumstances, the Inspectorate may charge for the cost of an inspection.
101. **Section 57** provides that the Chief Inspector will have a reasonable right of access to the premises of the providers being inspected, including access to electronic information held on computers. This right will, in general, be exercised by inspectors fulfilling the functions of the Chief Inspector, as a result of paragraph 5 of Schedule 1 to the School Inspections Act 1996. The inspectors will also be able to take copies of any records and documents relating to the education and training provision being inspected. Obstruction of an inspector in these circumstances will be an offence, and anyone found guilty is liable to a fine up to a maximum of level 4 on the standard scale, which is currently £2,500.
102. **Section 58** requires a provider of education or training to prepare an action plan following the publication of an inspection report, indicating the actions, and the timing of the actions, he proposes in the light of the findings within the report. There is a regulation-making power to govern publication and dissemination of the plans.
103. **Section 59** imposes a duty on the Inspectorate to produce an annual report on its activities which the Secretary of State must lay before Parliament. It also permits the Inspectorate to make reports on education or training within its remit at other times.

Chapter II: Her Majesty's Chief Inspector of Schools in England

104. **Sections 60 and 61** extend the existing powers and functions of HMCI to enable him to inspect, advise and report on education in the FE sector for pupils of compulsory school age; further education provided in the FE sector for those aged 16 and over but under 19 which is funded by the LSC; and further education provided by LEAs for persons under the age of 19. There is a regulation-making power to enable other educational provision to be prescribed as within the remit.
105. **Section 62** provides a duty on HMCI to secure the inspection of institutions within the FE sector, except where the education provided at the institution is solely within the remit of ALI, at such intervals as may specified by the Secretary of State. There are provisions for publication of the reports of these inspections which are analogous to those applying to ALI (see section 55).
106. **Sections 65 to 67** make provision for area inspections. The Secretary of State will have a power to direct HMCI to conduct an inspection in a specified area of England and to report on the quality, standards, availability and value for money of all education and training for people aged over 16 but under 19 within that area. Where the LSC or an LEA has provided resources for provision which is being examined in an area inspection, the inspection may extend to include the way in which the LSC or LEA has provided these resources and whether they provide value for money. There is also a power for HMCI to undertake such area inspections on its own initiative. When asked by HMCI, the Chief Inspector of Adult Learning must undertake part of the area inspection and, similarly, must give advice on education and training within his remit. Those conducting area inspections must have regard to the Common Inspection Framework (see section 69). There will be a duty on providers of education and training and any local authority in the area to provide relevant information to the Inspectors when reasonably requested to do so.
107. Under **section 66** there will be a duty on HMCI to prepare and publish a report of an area inspection, and within that report to record the views of ALI which are relevant to its remit.

*These notes refer to the Learning and Skills Act 2000
(c.21) which received Royal Assent on 28 July 2000*

108. **Section 67** makes provision for the Secretary of State to have a power to require that the LSC and relevant LEAs must produce plans following an area inspection which set out the action they will take in response to a report within a particular time. In writing an action plan, the LSC and any relevant LEA must consult such parties as the Secretary of State requires them to. Action plans must be published by the LSC and LEAs in a manner prescribed by the Secretary of State.
109. **Section 68** provides a general power for HMCI to advise the Secretary of State on issues within the new remit and gives HMCI the power to inspect and report on any education and training within that remit.

Chapter III: the common inspection framework and joint inspections

110. **Sections 69 to 70** make provision for the development of a common inspection framework for the inspection of provision of education and training within the two inspectorates' remits.
111. The framework will be prepared in draft by HMCI and ALI and will comprise a description of the principles and the arrangements by which inspections under this Part of the Act will be conducted. They must publish the draft, and consult the Secretary of State, the LSC and other appropriate persons, providing at least three months for comments.
112. After taking account of responses, HMCI and ALI will revise the draft. If at any time in this process they are unable to agree on any matter, they may refer this to the Secretary of State for advice. In the event of further disagreement, the Secretary of State may direct HMCI and ALI, who will comply with the direction. The framework will be published and brought into effect on such date as the Secretary of State may direct. The first framework will be agreed and published in good time before the full functions of ALI and the new functions of HMCI are brought into effect in April 2001.
113. **Section 71** provides for regulations to be made about joint inspections (institutions where the remit of the two inspectorates overlap), which will be under the direction of HMCI. The regulations may provide for the circumstances in which inspection must or may be carried out; the plan of inspection; and for a single report. There are further provisions for action plans after the publication of an inspection report.
114. **Section 72** gives qualified privilege to reports under this Part. This means that, unless a plaintiff can establish that a comment made in the report was made maliciously, there will be no liability in tort for the contents of the report.