

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (SCHOOL INSPECTION) (ENGLAND) (AMENDMENT)
REGULATIONS 2009**

2009 No. 1564

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Regulations amend the Education (School Inspection) Regulations 2005 to extend the maximum interval between routine Ofsted school inspections from 3 years to 5 years. A similar amendment is made in respect of inspections of denominational education and collective worship in maintained 'faith schools'.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Education (School Inspection) (England) Regulations 2005 (S.I. 2005/2038) make provision about the inspection of schools to which section 5 of the Education Act 2005 applies, which include schools maintained by local authorities and Academies. They also make provision for school inspections of denominational education and collective worship in schools designated as having a religious character under section 69(3) of the School Standards and Framework Act 1998, which are conducted under section 48 of the Education Act 2005.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

What is being done and why

7.1 School inspections under section 5 of the Education Act 2005 began in September 2005. By August 2009, all schools will have had at least one

‘section 5’ inspection under the current arrangements.

7.2 In May 2008, Ofsted published *A focus on improvement: proposals for maintained school inspections from September 2009*. This proposed, amongst other things, a more differentiated model of inspection under which inspection scheduling would be determined by an annual risk assessment, by Ofsted, of all schools. Those schools considered to be satisfactory or inadequate would, as now, be inspected at least once every three years with good and outstanding schools having a longer interval between inspections (up to six years) and a published ‘health check report’ at the three year point. The consultation document also proposed an increase in the proportion of ‘satisfactory’ schools receiving an Ofsted monitoring visit following a section 5 inspection, to check on progress, and regular monitoring for all inadequate schools. As a result of the consultation exercise, the maximum interval between inspections has been reduced from the proposed period of 6 years, to a period of 5 years (see paragraph 8.2 below).

7.3 The proposals are consistent with the Government’s principles of public sector inspection, which emphasise that inspection should be proportionate to risk and should therefore be targeted at where it can have most impact. They also reflect the Chief Inspector’s duties to perform her functions efficiently and effectively.

7.4 Subject to the Regulations coming into force, a school judged good or outstanding will be inspected at approximately five year intervals unless one of the following applies: the annual assessment of the school’s performance suggests it should be inspected earlier; Ofsted considers it appropriate to bring forward an inspection in light of concerns from parents; the school is part of an annual sample selected to ensure that the Chief Inspector can report on a cross-section of schools each year; the school is part of a ‘hard’ federation or shares important aspects of its provision; or a school has not submitted a up-to-date self-evaluation form. Special schools and pupil referral units will be inspected at least once every three years.

7.5 The Apprenticeships, Skills, Children and Learning Bill, which is currently before Parliament, provides for Ofsted to have a power to publish an interim statement (previously described as a health check report and in future to be commonly known as an interim assessment) and for schools to have a duty to send the statement to parents. The statement will confirm that Ofsted is of the opinion that the school does not need to be inspected for at least a year, and the reasons for this opinion. This would not constrain Ofsted from inspecting the school if its circumstances change. Ofsted intends to issue such statements to good and outstanding schools three years following their section 5 year inspection, subject to Ofsted being satisfied this is appropriate. Parents will therefore be provided with up-to-date information about the school’s performance in the absence of an inspection.

7.6 Section 5 inspections do not cover denominational education and collective worship provided in maintained schools which are designated as having a religious character. Instead such schools are required by section 48

of the Education Act 2005 to arrange, in most cases in consultation with an associated faith body, a separate inspection of this provision. The cycle for 'section 48' inspections currently mirrors the section 5 cycle. Schools are encouraged to arrange their section 48 inspection to coincide with the section 5 and there are administrative processes in place which facilitate this.

Consolidation

7.7 This is a minor amendment to the principal Regulations, and as such the Department does not intend to consolidate the principal Regulations at this time.

8. Consultation outcome

8.1 In October 2008, Ofsted published *A focus on improvement – An evaluation report: responses to Ofsted's consultation on proposed changes to maintained school inspections*. This confirmed that Ofsted had received 1666 responses to its consultation document published in May 2008 and referred to in paragraph 7.2 above. 65% of respondents agreed or strongly agreed with the proposal for a maximum six year inspection interval for good and outstanding schools. While three quarters of headteacher respondents supported the proposal, 48% of parents who responded disagreed or strongly disagreed.

8.2 In light of concerns from some parents that the interval was too long, further consideration was given to the maximum interval and it was decided that a five year maximum would be more appropriate. One of the benefits of this is that most parents and carers would be assured that their child's school was inspected at least once by Ofsted during their time in secondary education.

8.3 In relation to inspections of denominational education and collective worship in faith schools, the proposal to increase the maximum period between inspections in future has been discussed with representatives of various faith groups i.e. the Church of England National Society, the Catholic Education Service, the Association of Muslim Schools, the Board of Deputies of British Jews, the Network of Sikh Organisations, the Methodist Church and the Seventh-day Adventist Church. There have been no objections to these proposals.

9. Guidance

9.1 On 12 June, Ofsted published 'Framework for the inspection of maintained schools in England from September 2009' which includes details of how inspections will be scheduled in future. Ofsted has also organised a number of regional dissemination conferences for schools and local authorities covering the new school inspection arrangements.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 An impact assessment for the change to the section 5 maximum interval has been prepared. The impact on the public sector is an estimated saving to the school system of approximately £1.6m per year and estimated savings to Ofsted of £4.6m per year.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring and review

12.1 Following the implementation of the new inspection framework, Ofsted will continue to monitor the impact of inspection via the School Inspection Survey. In addition Ofsted intends to commission a large scale fully independent survey to review the impact of the new inspection arrangements. It is anticipated that the fieldwork for this will take place in late autumn 2009 to summer 2010. This will cover the effectiveness and impact of the new system on school improvement. There are also some smaller scale additional surveys, also fully independent, to review the framework in relation to some more specific aspects, such as teachers' and parents' views of the new methodology.

13. Contact

13.1 John Malynn or Malcolm D'Souza at the Department for Children, Schools and Families (Tel: 0207 340 7431 or 0207 340 7358, email john.malynn@dcsf.gsi.gov.uk or malcolm.d'souza@dcsf.gsi.gov.uk) can answer queries regarding this instrument