

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SCHOOL INSPECTION) (ENGLAND) (AMENDMENT)
REGULATIONS 2015

2015 No. 170

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

2. Purpose of the instrument

2.1 The Education (School Inspection) (England) Regulations 2005 (“the 2005 Regulations”) prescribe the interval between inspections of schools under section 5 of the Education Act 2005. These Regulations amend the 2005 Regulations to prescribe the interval between inspections of schools which were awarded a grade of “good”, or better, at their last inspection under section 5.

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

3.1 None

4. Legislative Context

4.1 Section 5 of the Education Act 2005 provides that the Chief Inspector must inspect all schools to which that section applies at prescribed intervals. The 2005 Regulations, which are made under section 5, currently provide that the Chief Inspector must inspect schools to which that section applies within 5 school years from the end of the school year in which the last inspection took place.

4.2 These Regulations amend the 2005 Regulations to prescribe a different interval between inspections of schools which have been awarded a grade of “good” by the Chief Inspector at their latest inspection under section 5. The interval between inspections of such schools will be either: (i) a period not exceeding 5 years from the end of the school year in which the last inspection under section 5 takes place; or (ii) where the school is subject to a “relevant section 8 inspection”, 5 years from the end of the school year in which that section 8 inspection was carried out. A “relevant section 8 inspection” is one which is carried out under section 8(2) of the Education Act 2005 and in relation to which the conditions described at new regulation 3(7) to (9) are satisfied. One of those conditions is that the Chief Inspector is satisfied that, having carried out the inspection, there is no evidence to suggest that the school would not achieve a grade of “good” if an inspection under section 5 were carried out.

4.3 The Education (Exemption from School Inspection) (England) Regulations 2012 exempt certain categories of school from inspections under section 5 of the Education Act 2005 if they receive the highest grading in their latest inspection under section 5 (currently, that is an “outstanding” grading). However, not all schools to which section 5 applies and which achieve a grade of “outstanding” are exempt from inspection under those Regulations. Maintained nursery schools, pupil referral units, maintained special schools, and non-maintained special schools, for instance, continue to be subject to section 5 inspections. The new interval which these Regulations prescribe for “good” schools applies also to those schools referred to above which have received a grade of “outstanding”.

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

7.1 Around 70% of schools judged ‘good’ by Ofsted retain or improve their grade at their next inspection under section 5 of the Education Act 2005. This means that resources are expended on full inspections in these cases to confirm that the schools are still “good”. The Regulations will allow a more proportionate approach to the inspection of “good” schools, enabling Ofsted not to inspect within 5 years under section 5, where they undertake a short inspection (described in the Regulations as a “relevant section 8 inspection”).

7.2 Ofsted will now, therefore, conduct less frequent full inspections of schools that were judged to be “good” at their last full section 5 inspection and will carry out short inspections of these schools and those “outstanding” schools that are not prescribed as being exempt from section 5 inspection (maintained nursery schools, special schools and pupil referral units). This will determine when these schools might require a full section 5 inspection. These short inspections will be undertaken using the Chief Inspector’s general power to inspect a school under section 8(2) of the Education Act 2005. These Regulations do not affect the “outstanding” schools which are exempt from routine section 5 inspection as set out in The Education (Exemption from School Inspection) (England) Regulations 2012.

7.3 These short inspections will be undertaken by one or more of Her Majesty’s Inspectors (HMI) and will normally take place around three years after the section 5 inspection which awarded that school the grade of “good”. The purpose of these short inspections is to provide confirmation that the school continues to perform effectively. Where this is the case, the summary letter giving details of the outcome of the inspection

will confirm this. If there are areas for improvement which are not significant enough to suggest that a school is no longer “good” these will be noted in the letter. All letters for these inspections will be published by Ofsted in the same way as takes place with the inspection reports following section 5 inspections.

7.4 Where Her Majesty’s Inspectors are of the opinion that there is a significant concern that the school may no longer be “good”, they may recommend that a full inspection takes place, which could be by extending the short inspection so that it can be deemed a section 5 inspection which would report against all of the relevant requirements. If Her Majesty’s Inspectors consider that there is strong evidence to indicate that a school is likely to be “outstanding”, they may recommend that a full section 5 inspection is scheduled.

8. Consultation outcome

8.1 Ofsted consulted on these proposals from 16 October to 5 December 2014 and received around 4,400 responses. Overall, responses to the consultation were positive and more respondents agreed than disagreed with Ofsted’s proposals. Nearly seven in ten of all respondents to the questionnaire supported the proposal for short inspections. The proposal was also supported by the majority of headteachers and leaders who Ofsted engaged with during the consultation period. More than half of parents who responded to the consultation supported the proposal for these inspections. The outcome of the consultation was published on 3 February 2015 and can be found at <https://www.gov.uk/government/consultations/better-inspection-for-all>

9. Guidance

9.1 Ofsted will be publishing new guidance for the short inspections as well as revised school inspection documentation covering section 5 inspections to take effect from September 2015. This guidance is expected to be published during the summer school term in readiness for implementation in September.

10. Impact

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

10.2 Ofsted considered the impact on both its own resources and that of schools. These revised shorter inspection arrangements for schools will take up less time and will be less intensive, as Ofsted will only be assessing if the school has maintained its effectiveness—therefore Ofsted will be able to re-focus resources on weaker schools. This means that, based on Ofsted’s latest published information on inspection outcomes, over twelve thousand schools could benefit from a reduction in time spent on inspection activity.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 Ofsted will be piloting this new approach to inspection and will continue to monitor the effectiveness and impact of these new inspection arrangements.

13. Contact

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Malcolm.D'Souza@education.gsi.gov.uk or Lesley.Hollick@education.gsi.gov.uk can answer any queries regarding the instrument.