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STATUTORY INSTRUMENTS

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**2018 No. 205**

**EDUCATION, ENGLAND**

The Independent Educational Provision in  
England (Inspection Fees) and Independent  
School Standards (Amendment) Regulations 2018

<i>Made</i>	- - - -	<i>16th February 2018</i>
<i>Laid before Parliament</i>		<i>23rd February 2018</i>
<i>Coming into force</i>	- -	<i>1st April 2018</i>

The Secretary of State, in exercise of the powers conferred by sections 94(1) and (2), 111(1), (2), (3)(a) and (c) and (4)(b), and 166(6) of the Education and Skills Act 2008(1), makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Independent Educational Provision in England (Inspection Fees) and Independent School Standards (Amendment) Regulations 2018 and come into force on 1st April 2018.

(2) In these Regulations—

“the 2008 Act” means the Education and Skills Act 2008;

“progress monitoring inspection” has the meaning given in regulation 6(2);

“pupil” has the meaning given in section 3 of the Education Act 1996 (definition of pupil etc.)(2);

“relevant date” means 1st April 2018; and

“relevant institution” means an institution to which section 111 of the 2008 Act (fees for inspections by the Chief Inspector under Chapter 1)(3) applies.

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(1) [2008 c.25](#) (“the 2008 Act”); section 111 was amended by section 23 of the Children, Schools and Families Act [2010 \(c. 26\)](#). See section 168(1) for the definition of “prescribed” and “regulations”.

(2) [1996 c.56](#); section 3 was amended by paragraph 9(2) of Schedule 7 to the Education Act [1997 \(c. 44\)](#) and paragraph 34(2) and (3) of Schedule 21 to the Education Act [2002 \(c. 32\)](#).

(3) See section 111(6) of the 2008 Act for the application of that section. See section 92 for the definition of “an independent educational institution”. See section 138 for the definition of “Chief Inspector”.

**Fees for inspections by the Chief Inspector**

2.—(1) The proprietor of a relevant institution must pay to the Chief Inspector the overall inspection fee in respect of an inspection to which paragraph (2) applies.

(2) This paragraph applies in respect of an inspection of a relevant institution undertaken under section 109 of the 2008 Act (duty to inspect registered institution on direction of Secretary of State) which is to take place on or after the relevant date which is not—

- (a) an inspection prompted by a complaint or allegation about that relevant institution;
- (b) an inspection prompted by a request by the Tribunal in relation to an appeal to the Tribunal in relation to that relevant institution; or
- (c) a progress monitoring inspection.

**Composition of the overall inspection fee and time for payment**

3.—(1) The overall inspection fee in respect of an inspection to which regulation 2 applies comprises three individual fees, each of which is to be paid within any one relevant period.

(2) In paragraph (1) “relevant period” means—

- (a) the period of thirty-six months beginning with the relevant date; and
- (b) each subsequent period of thirty-six months beginning immediately after the end of the previous thirty-six month period.

(3) The amount of each individual fee is determined according to the entry in column 2 of Table 1 which corresponds to the number of pupils attending the relevant institution specified in column 1 of that table.

(4) An individual fee payable under this regulation—

- (a) must be paid no later than 28 days after the Chief Inspector gives the proprietor a notice requesting payment of that fee; and
- (b) may be required to be paid before the inspection to which it relates takes place.

(5) When determining the number of pupils attending a relevant institution, only those pupils who are aged two or over on the date of the notice referred to in paragraph (4)(a) are to be taken into account.

**Table 1**

<i>Column 1 (Number of pupils attending the relevant institution)</i>	<i>Column 2 (Individual fee)</i>
Fewer than 100	£300 plus an additional £12 per pupil
100 or more but no more than 120	£1,475
121 or more but no more than 150	£1,475 plus, in respect of the 121st pupil and every pupil up to and including the 150th, an additional £12 per pupil
151 or more but no more than 399	£1,999
400 or more	£2,232

#### **Fee not to be refunded where inspection does not take place**

4.—(1) If an inspection in respect of which regulation 2 applies does not take place because the relevant institution is no longer registered<sup>(4)</sup>, any fee paid in respect of that inspection in accordance with regulation 3 is not to be refunded.

(2) Where a notice under regulation 3(4)(a) has been given, the fee must be paid, regardless of whether the inspection takes place.

#### **Fee for a pre-registration inspection**

5.—(1) The proprietor of a relevant institution who applies, under section 98(1) of the 2008 Act (applications for registration), to the Secretary of State for the institution to be entered on the register must pay to the Chief Inspector a fee of £1,792 for each inspection undertaken under section 99 of the 2008 Act (determination of applications for registration).

(2) A fee in respect of an inspection to which paragraph (1) applies must be paid no later than 28 days after the Chief Inspector gives the proprietor a notice requesting payment of the fee.

#### **Fees for progress monitoring inspections and time at which they must be paid**

6.—(1) The proprietor of a relevant institution must pay to the Chief Inspector a fee in respect of an inspection to which paragraph (2) or paragraph (3) applies.

(2) This paragraph applies to an inspection (“a progress monitoring inspection”) of a relevant institution by the Chief Inspector which takes place on or after the relevant date and which is prompted by evidence, from an inspection other than one to which this paragraph applies, that one or more of the independent school standards is or are not being met in relation to that institution.

(3) This paragraph applies to a second or subsequent progress-monitoring inspection which takes place on or after the relevant date.

(4) A fee in respect of an inspection to which paragraph (2) or paragraph (3) applies must be paid no later than 28 days after the Chief Inspector gives the proprietor a notice requesting payment of the fee.

(5) For the purposes of this regulation, a reference to the “independent school standards” is—

- (a) to standards prescribed by the Education (Independent School Standards) Regulations 2014<sup>(5)</sup>; or
- (b) in relation to early years provision for children who have attained the age of two, to the Early Years Foundation Stage within the meaning of section 39 of the Childcare Act 2006<sup>(6)</sup>.

#### **Amount of fees in respect of an inspection to which regulation 6 applies**

7.—(1) The fee payable in respect of an inspection to which regulation 6 applies is determined in accordance with Table 2.

(2) When determining the number of pupils attending a relevant institution, only those pupils who are aged two or over on the date of the notice referred to in regulation 6(4) are to be taken into account.

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<sup>(4)</sup> See section 138 of the 2008 Act for the definitions of “registered” and “the register”.

<sup>(5)</sup> S.I. 2014/3283.

<sup>(6)</sup> 2006 c.21. See section 138 of the 2008 Act for the definition of “early years provision”.

**Table 2**

<i>Number of pupils attending the relevant institution</i>	<i>Fee payable in respect of an inspection to which regulation 6(2) applies</i>	<i>Fee payable in respect of an inspection to which regulation 6(3) applies</i>
150 or fewer	£133 plus an additional £6 per pupil	£300 plus an additional £13.50 per pupil
151 or more	£1,100	£2,499

**Notifications**

**8.**—(1) A notice given under regulation 3(4)(a), regulation 5(2) or regulation 6(4) must be sent to the proprietor either—

- (a) by post; or
- (b) electronically.

(2) If the notification is sent to the proprietor electronically it is to be treated as given only if—

- (a) the proprietor had indicated to the Chief Inspector willingness to receive notification by electronic means and provided an address suitable for that purpose; and
- (b) the notification was sent to that address.

**Amendment of the Education (Independent School Standards) Regulations 2014**

**9.**—(1) The Education (Independent School Standards) Regulations 2014 are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “the National Minimum Standards for Accommodation of Students under Eighteen by Further Education Colleges”; and
- (b) in the definitions of “the National Minimum Standards for Boarding Schools” and “the National Minimum Standards for Residential Special Schools”, for “November 2012” in both places where it occurs, substitute “April 2015”.

(3) In paragraph 8(b) of Part 3 of the Schedule, omit “or the National Minimum Standards for Accommodation of Students under Eighteen by Further Education Colleges”.

**Revocations and saving**

**10.**—(1) The Education (Independent School Inspection Fees and Publication) (England) Regulations 2008(7) are revoked for all remaining purposes.

(2) The Education (Independent Educational Provision in England) (Inspection Fees) Regulations 2009(8) are revoked subject to the saving in paragraph (3).

(3) Where—

- (a) a relevant institution was inspected on or after 1st September 2009 but before the relevant date; and
- (b) the proprietor was required to pay a fee in relation to that inspection,

the Education (Independent Educational Provision in England) (Inspection Fees) Regulations 2009 continue to have effect in relation to the requirement to pay that fee.

(7) [S.I. 2008/1801](#), revoked in part by [S.I. 2009/1607](#).

(8) [S.I. 2009/1607](#), amended by [S.I. 2010/1002](#).

16th February 2018

*Agnew*  
Parliamentary Under Secretary of State  
Department for Education

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made by way of powers in the Education and Skills Act 2008. Their purpose is to revoke and replace the Education (Independent Educational Provision in England) (Inspection Fees) Regulations 2009 (“the 2009 Regulations”) (S.I. 2009/1607), which have been the main piece of legislation in this area. In addition, these Regulations make amendments to the Education (Independent School Standards) Regulations 2014 (2014/3283).

Regulation 2 makes provision for the requirement to pay fees to Her Majesty’s Chief Inspector of Education, Children and Skills (the Chief Inspector) in respect of inspections under section 109 of the Education and Skills Act 2008. Fees are not required to be paid under regulation 2 for certain types of inspections.

Regulation 3 and Table 1 set out the way that the fees are determined. The fees for the inspections referred to in regulation 2 are being increased above the rate of inflation. The fee is payable over the course of three years, and the effect of the regulation is that payment may be due under these Regulations before an inspection has happened. Regulation 4 provides for certain circumstances in which a fee will not be refunded, even if the inspection does not take place at all (for example, in circumstances where the fee has been paid, but the school ceases to be registered).

Regulation 5 makes provision for a new fee that is to payable to the Chief Inspector in respect of pre-registration inspections.

Regulation 6 requires fees to be payable in respect of progress monitoring inspections. Regulation 6 introduces a new requirement to pay a fee in respect of a third and subsequent progress monitoring inspections. Fees for the first and second progress monitoring inspections are not being increased. Regulation 7 sets out the amount of the fee and how it is to be calculated. Regulation 8 sets out the requirement of giving notice in respect of a requirement to pay a fee to the Chief Inspector.

Regulation 10 makes revocation and saving provisions. Savings are made in respect of cases where an inspection took place under the 2009 Regulations before these Regulations come into force. The effect of regulation 10(2) is to preserve the obligation to make the payment under the 2009 Regulations, notwithstanding their revocation.

Regulation 9 makes a number of minor amendments to the Education (Independent School Standards) Regulations 2014 consequential on the publication of new National Minimum Standards in 2015. A copy of the National Minimum Standards may be found on <https://www.gov.uk/government/publications/boarding-schools-national-minimum-standards> and <https://www.gov.uk/government/publications/residential-special-schools-national-minimum-standards> or can be obtained in alternate formats from the Independent Education and Boarding Team, Department for Education, Bishopsgate House, Feetham, Darlington, DL1 5QE.

An impact assessment of the effect that this instrument will have on the costs of business and the public and voluntary sector is available from the Independent Education and Boarding Team, Department for Education, Bishopsgate House, Feethams, Darlington, DL1 5QE and accessible on the Department’s internet website at <http://www.education.gov.uk>. Copies have also been placed in the Library of each House of Parliament.