

*These notes refer to the Education Act 2005 (c.18)
which received Royal Assent on 7 April 2005*

EDUCATION ACT 2005

EXPLANATORY NOTES

COMMENTARY

Part 1: School Inspections and Other Inspections by School Inspectors

Chapter 6 – Other Inspections: England and Wales

Schedule 7: Inspection of child minding, day care and nursery education

96. This Schedule makes amendments to Part 10A of the Children Act 1989 which was inserted by the Care Standards Act 2000 (child minding and day care); and section 122 of, and Schedule 26 to, the School Standards and Framework Act 1998 (nursery education).
97. *Paragraph 1* expands the general duty of the Chief Inspector for England to keep the Secretary of State informed about child minding and day care provided in England. In addition to the quality and standards of child minding and day care, the Chief Inspector must also keep the Secretary of State informed about how far child minding and day care meet the needs of the range of children cared for, about the quality of the leadership and management of day care, and about the contribution made by child minding and day care to the well-being of the children for whom they are provided. Well-being is to be interpreted in accordance with section 10(2) of the Children Act 2004.
98. *Paragraph 2* removes the requirement on the Chief Inspector to maintain a register of early years child care inspectors in England.
99. *Paragraph 3* makes amendments as a consequence of the removal of the requirement to maintain a register of early years child care inspectors under paragraph 3. It places duties, formerly placed on registered inspectors, on the Chief Inspector in England to report as set out at paragraph 2. *Sub-paragraph (6)* inserts a new regulation-making power to require child minders and providers of day care to notify prescribed persons of an inspection.
100. *Paragraph 4* amends the provisions in section 79R of the Children Act 1989 placing the responsibility for the production and distribution of child minding and day care inspection reports on the Chief Inspector of schools in England. It removes the requirement for a report to be prepared within a prescribed period. Paragraph 4(4) makes provision for regulations to require child minders and providers of day care, to whom the Chief Inspector is already required to send a report, to make a copy of the report available to other persons as may be prescribed (this will cover parents); to provide a copy of the report to other persons as may be prescribed; and allows them to charge a fee for providing copies of the report in prescribed cases. Paragraph 4(5) removes a reference to SIA 1996 and substitutes it with a reference to this Act, enabling inspection reports to be published by electronic means.
101. *Paragraphs 5 and 6* amend sections 79T and 79U of the Children Act 1989, replacing references in those provisions to SIA 1996 with references to this Act for Wales and England respectively. In Wales, paragraph 5 enables the Chief Inspector for Wales to

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determine the manner in which inspection reports are published (see note to section 28). In England, paragraph 6 ensures that the rights of entry under the Children Act 1989 permit access to allow the inspection of computer records (see note to section 58).

102. *Paragraph 7* amends section 122 of the School Standards and Framework Act 1998, to reflect the retention of the requirement to keep a register of nursery inspectors in Wales but the removal of this requirement in England.
103. *Paragraph 9* amends the definition of ‘relevant nursery education’ (and associated expressions) for the purposes of Schedule 26 (Inspection of nursery education) of the School Standards and Framework Act 1998. The definition now includes nursery education provided under arrangements made in pursuance of the duty to secure sufficient provision of nursery education for their area under section 118 of the 1998 Act. This is in consequence of the removal of the duty on the local authority to prepare an early years and childcare development plan.
104. *Paragraph 10* makes changes which reflect the different approaches in England and Wales outlined below (see notes to paragraphs 13 to 19). This paragraph also defines the term “well-being” in accordance with sections 10(2) (England) and 25(2) (Wales) of the Children Act 2004.
105. *Paragraph 11* expands the general duty, as set out in paragraph 3 of Schedule 26 to the School Standards and Framework Act 1998, of the Chief Inspector for England and the Chief Inspector for Wales to keep the Secretary of State and the Assembly respectively informed about relevant nursery education. In addition to the quality and standards of nursery education, and the spiritual, moral, social and cultural development of the children for whom nursery education is provided, both Chief Inspectors must also provide information about how far relevant nursery education meets the needs of the range of children for whom it is provided, about the quality of the leadership and management of nursery education, and about the contribution made by relevant nursery education to the well-being of the children for whom it is provided.
106. *Paragraph 12* makes changes to the nursery education inspection provisions in paragraphs 6 and 7 of Schedule 26 to the School Standards and Framework Act 1998. These changes are a consequence of the removal of the requirement on the Chief Inspector for England to establish and maintain a register of nursery education inspectors (see notes to paragraphs 13 to 19 below). It re-enacts paragraph 6 of Schedule 26 in relation to Wales, making provision for the Chief Inspector for Wales to secure the inspection of nursery education by HMI or registered nursery education inspectors. It also inserts a new regulation-making power to require the responsible person (to be prescribed) to notify prescribed persons of an inspection.
107. In relation to both England and Wales, this paragraph removes the references to inspections being carried out at any premises on which relevant nursery education is provided. The Chief Inspector will be able to inspect relevant nursery education without having to arrange an inspection visit to every set of premises.
108. *Paragraphs 13 to 19* remove the requirement on the Chief Inspector for England to establish and maintain a register of nursery education inspectors, but provide for the retention of this requirement in Wales. They make a number of consequential amendments to paragraphs 8, 9, 10, 11 and 12 of Schedule 26 to the School Standards and Framework Act 1998 to reflect this difference.
109. *Paragraph 20* amends the provisions in Schedule 26 of the School Standards and Framework Act 1998 in respect of nursery education inspection reports in England. These make the Chief Inspector responsible for the production and distribution of all reports and remove the requirement for a report to be prepared within a prescribed period. It makes provision requiring the Chief Inspector to send a copy of the report to the responsible person (which will be prescribed in regulations to cover those persons in receipt of funding from the local education authority for the provision of nursery

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education) and to other persons as may be prescribed. It also makes provision for regulations to require the responsible person (to whom the Chief Inspector is already required to send a report) to make a copy of the report available to other persons as may be prescribed (it is intended that this will cover parents); to provide a copy of the report to other persons as may be prescribed; and to allow them to charge a fee for providing copies of the report in prescribed cases.

110. *Paragraph 20* also re-enacts, in relation to Wales, the provisions of paragraph 13 of Schedule 26 to the School Standards and Framework Act 1998 which makes provision in relation to the reports of inspections. There is new provision (as in England) allowing regulations made by the Assembly to require prescribed persons, to whom the Chief Inspector for Wales is already required to send a report, to send a copy of the report to other specified persons.
111. Finally, paragraph 20 removes the reference to SIA 1996 and substitutes it with a reference to this Act, enabling inspection reports to be published by electronic means.
112. *Paragraph 21* amends paragraph 14 of Schedule 26 to the School Standards and Framework Act in respect of the provisions for the annual reports of Chief Inspectors in both England and Wales to include an account of the exercise of their functions in respect of nursery education inspection, consequent upon the new legal basis for such reports in this Act.
113. *Paragraphs 22 and 23* make consequential amendments to reflect the different provisions for nursery education in England and Wales, as outlined in the notes to paragraphs 13-19.
114. *Paragraph 24* makes further consequential amendments to paragraphs 16, 17 and 18 of the School Standards and Framework Act 1998 reflecting the different provisions for nursery education in England and Wales, as set out at paragraphs 13 to 19, and replaces a reference to section 42 of SIA 1996 which relates to the inspection of computer records with an equivalent reference in this Act.