

# EDUCATION AND INSPECTIONS ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY

#### Part 8 – Inspections

##### *Chapter 1 – The Office and the Chief Inspector*

##### *Section 112: Office for Standards in Education, Children’s Services and Skills*

531. This section establishes the Office for Standards in Education, Children’s Services and Skills, and provides that its functions are to be carried out on behalf of the Crown. The section also gives effect to Schedule 11.

##### *Schedule 11: The Office for Standards in Education, Children’s Services and Skills*

532. [Schedule 11](#) sets out in detail how the Office will be constituted: that it will comprise a chairman and between 5 and 10 members (all to be appointed by the Secretary of State) and the Chief Inspector. The Schedule contains further detail about the terms of appointment of the chairman and members other than the Chief Inspector, including provision for their remuneration and the payment of pensions, allowances and gratuities – all to be determined by the Secretary of State. See [Schedule 12](#) for further provision about the Chief Inspector.
533. [Paragraph 6](#) enables the Office to employ staff, with this power to be exercisable only by the Chief Inspector on behalf of the Office. The Chief Inspector will be responsible for the management of staff, and will set conditions of service subject to approval of the Minister for the Civil Service. [Paragraph 12](#) enables the Office to enter into contracts and acquire property but again these powers are to be exercisable only by the Chief Inspector on behalf of the Office, and he will be responsible for the management of any property and accommodation.
534. The Schedule also contains provisions for the procedural operation of the Office and the exercise of its functions. These include powers to establish committees and sub-committees and to regulate its proceedings.

##### *Section 113: Her Majesty’s Chief Inspector of Education, Children’s Services and Skills*

535. This section establishes the office of Her Majesty’s Chief Inspector of Education, Children’s Services and Skills ([subsection \(1\)](#)) and abolishes the office of Her Majesty’s Chief Inspector of Schools in England ([subsection \(8\)](#)). The Chief Inspector is appointed to office by Her Majesty by Order in Council, though the person in post as Her Majesty’s Chief Inspector of Schools in England at the time the section comes into force will be the first Chief Inspector ([subsection \(9\)](#)). The Chief Inspector’s terms of appointment are determined by the Secretary of State ([subsection \(5\)](#)). A term of office may be no more than five years, though a previous post-holder is not barred from reappointment ([subsections \(6\) and \(7\)](#)). [Subsection \(6\)\(c\)](#) sets out grounds on which the Chief Inspector may be removed from office.

***Section 114: Her Majesty’s Inspectors of Education, Children’s Services and Skills***

536. This section provides for the appointment of Her Majesty’s Inspectors of Education, Children’s Services and Skills (“HMIs”) by Her Majesty by Order in Council (*subsection (1)*). HMIs will be staff of the Office (*subsection (3)*) and will cease to be HMIs on ceasing to be a member of staff (*subsection (5)*). It also allows for existing HM Inspectors of Schools in England to become HMIs (*subsections (6) and (7)*).

***Section 115: Further provision about Chief Inspector and other inspectors etc.***

537. This section gives effect to Schedule 12.

***Schedule 12: The Chief Inspector and other inspectors***

538. *Schedule 12* draws on current arrangements for Her Majesty’s Chief Inspector of Schools in England in Schedule 1 to the 2005 Act (which is repealed by the Act), as well as setting out other arrangements for the Chief Inspector.

***Schedule 12, Part 1 – The Chief Inspector***

539. *Paragraph 1* provides that the Secretary of State will determine the remuneration and pension that the Office is to pay to the Chief Inspector.
540. *Paragraphs 2 and 3* set out provisions covering the performance of the Chief Inspector’s functions during any vacancy or any incapacity of the Chief Inspector. *Paragraphs 4, 5 and 6* contain technical provisions about the Chief Inspector.
541. The Chief Inspector is to be both a member of the Office and an office-holder on whom functions are conferred by Part 8 and other enactments. *Paragraph 7(1)* sets out the general rule that functions conferred on the Chief Inspector by virtue of Part 8 or any other enactment are conferred on him in his capacity as holder of the office of Chief Inspector. *Paragraph 7(2)* sets out the exceptions to this rule. As a result of *paragraph 8*, the Chief Inspector is to be regarded as part of the non-Ministerial Government Department constituted by the Office for all purposes relating to that department. Any necessary details of particular responsibilities flowing from this arrangement will be set out in an order under the paragraph.

***Schedule 12, Part 2 – Inspectors etc. acting on behalf of Chief Inspector***

542. *Paragraph 9* re-enacts paragraph 5 of Schedule 1 to the 2005 Act. It has the effect that, subject to the following exceptions, any of the functions of the Chief Inspector under this Act or any other Act may be fulfilled by: any HMI; any other member of the staff of the Office; or any additional inspector (see paragraphs 11 and 12 in relation to additional inspectors). The exceptions are that a report concluding that special measures are required must be personally authorised by the Chief Inspector or an HMI specifically authorised to do so (*sub-paragraph (3)*) and that an additional inspector cannot conduct an inspection under section 5 of the 2005 Act unsupervised by an HMI unless he has previously conducted such an inspection to the satisfaction of an HMI (*paragraph 11(4)*).
543. *Paragraph 10* requires the Chief Inspector to ensure that any HMI, member of staff of the office or an additional inspector carrying out any of the activities within the Chief Inspector’s remit has the necessary qualifications, experience and skills
544. *Paragraph 11* gives the Chief Inspector the ability to arrange for inspectors to assist the Chief Inspector to fulfil his functions. Such inspectors will be engaged either directly or through an inspection service provider, and will be known as additional inspectors.
545. *Paragraph 12* sets out provisions relating to the use of inspection service providers. When engaging additional inspectors through an inspection service provider, the Chief Inspector must publish a statement of the qualifications and/or experience, standards

and skills which additional inspectors are required to have. He must also publish a list of names given to him by the inspection service provider of persons who may be used in future as additional inspectors. The Chief Inspector must ensure that any arrangements he makes with inspection service providers require them to ensure that additional inspectors meet the published requirements.

### ***Section 116: Functions of the Office***

546. This section provides for the Office to have the function of determining the strategic priorities, objectives and targets for the Chief Inspector in connection with the performance of his functions, and to secure that the Chief Inspector's functions are performed efficiently and effectively. The Office will set the strategic direction of the Office and hold the Chief Inspector to account for his performance of the functions relating to inspection and as a registration authority that are conferred on him.

### ***Section 117: Performance of Office's functions***

547. This section provides that the general purpose of the Office is to perform its functions to encourage: the improvement of activities within the Chief Inspector's remit, the carrying on of those activities as user-focused activities, and the efficient and effective use of resources in the carrying out of those activities. In addition, in performing its functions, the Office is to have regard to the matters in *subsection (2)*. These are intended, as far as is possible, to reflect the Government's ten principles of public sector inspection. *Subsections (4) to (6)* contain definitions, including in *subsection (6)* an explanation of the activities that are within the Chief Inspector's remit and in *subsection (4)* a definition of "relevant persons" interested in the activities within the Chief Inspector's remit – namely persons who have an interest in those activities as persons for whom they are carried out, parents or employers.

### ***Section 118: Functions of the Chief Inspector***

548. This section sets out the Chief Inspector's general duty to keep the Secretary of State informed about the quality and standards, improvement, user-focus and efficiency and effectiveness of the activities within his remit. It also requires the Chief Inspector to provide information or advice on matters relating to those activities at the Secretary of State's request (*subsection (2)*) and enables the Chief Inspector to give advice to the Secretary of State of his own volition (*subsection (3)*). Further functions may be assigned to the Chief Inspector by the Secretary of State (*subsection (4)*).

### ***Section 119: Performance of Chief Inspector's functions***

549. This section requires the Chief Inspector to perform his functions in such a way as to encourage improvement in the performance of the activities within his remit. It also requires the Chief Inspector to discharge his functions efficiently and effectively and with regard to the needs of users of services within his remit. These duties reflect those placed upon the Office in section 117. In performing his functions the Chief Inspector must have regard to the same matters as the Office does in performing its functions (*subsection (3)*).

### ***Section 120: Children's Rights Director***

550. This section establishes the post of the Children's Rights Director which is to be held by an employee of the Office. The post replaces that of Children's Rights Director in the Commission for Social Care Inspection (as to which, see paragraph 5(2) of Schedule 7 to the Health and Social Care (Community Health and Standards) Act 2003). *Subsection (2)* enables the Secretary of State to make regulations setting out the functions of the Children's Rights Director; his functions will relate only to the functions of the Chief Inspector described in *subsection (3)*.

*These notes refer to the Education and Inspections Act 2006  
(c.40) which received Royal Assent on 8 November 2006*

***Section 121: Annual report and other reports to Secretary of State***

551. This section requires the Chief Inspector to make an annual report to the Secretary of State, who in turn must lay this report before Parliament. It gives the Chief Inspector power to make such other reports as he considers appropriate. He may publish any report he makes under the section in whatever manner he considers appropriate.