

# EDUCATION AND INSPECTIONS ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 8 – Inspections**

#### ***Chapter 6 – Further provisions relating to functions of Chief Inspector***

#### ***Section 146: Inspection of secure training centres***

602. This section reproduces provisions in section 112 of the Health and Social Services (Community Health and Standards) Act 2003 (which is repealed by the Act) for the Secretary of State (in practice the Home Secretary) and the Chief Inspector to make arrangements for the inspection of secure training centres. These are centres for offenders under the age of 18 who have been sentenced by a Court to a detention and training order within the meaning of section 100 of the Powers of Criminal Courts (Sentencing) Act 2000. Inspections of secure training centres are currently conducted jointly by CSCI and HM Chief Inspector of Schools in England by agreement with the Youth Justice Board on behalf of the Home Secretary. By virtue of this section, the functions of inspecting secure training centres will become exercisable solely by the Chief Inspector.

#### ***Section 147: Inspection of premises in connection with adoption and fostering functions***

603. This section re-enacts provision that was formerly in section 45 of the Care Standards Act 2000 and provides a power for the Secretary of State to make regulations requiring the Chief Inspector to inspect relevant functions of a local authority on such occasions or at such intervals as the regulations specify. “Relevant functions” are defined, by reference to Part 3 of the Care Standards Act 2000, as adoption and fostering functions.

#### ***Section 148: Transfer of certain CSCI functions to the Chief Inspector***

604. This section provides for functions of CSCI under Part 2 of the Care Standards Act 2000 as to the registration of children’s homes, residential family centres, fostering agencies, voluntary adoption agencies, and adoption support agencies, to transfer to the Chief Inspector. The section also provides for the transfer to the Chief Inspector of functions of CSCI under section 65 of the Children Act 1989 (in respect of disqualification from carrying on a children’s home), and sections 87 to 87D of the Act (in respect of the welfare of children in boarding schools, and colleges).

#### ***Section 149: Interaction with other authorities***

605. This section gives effect to Schedule 13.

#### ***Schedule 13: Interaction with other authorities***

606. *Paragraph 1* defines the inspection authorities to which this Schedule applies: the five existing criminal justice inspectorates, the Commission for Healthcare Audit and

Inspection, CSCI and the Audit Commission. The cooperation arrangements, under paragraph 6, apply to the inspectorates as a whole, whereas the reciprocal arrangements for notification of inspection programmes, under paragraph 4 or 5, apply to the relevant chief inspectors. It is expected that the list will be amended in due course as the Government's policy on public services inspection is implemented and the number of public sector inspectorates reduced. (In due course, similar provisions will appear in legislation establishing the other inspectorates.)

607. *Paragraph 3* gives the Chief Inspector power to delegate any of his inspection functions to a public authority ("public authority" is defined in *paragraph 2*). For example, the Chief Inspector may need to delegate functions to another inspection authority to enable efficient management of a joint inspection.
608. *Paragraph 4 and 5* are designed to ensure that the inspection authorities co-operate, work efficiently together and do not duplicate inspections so as to place unnecessary burdens on those being inspected. Under paragraph 4 the Chief Inspector must prepare from time to time a document setting out his "inspection programme" and his "inspection framework", the latter being a document setting out the manner in which he proposes to carry out his inspection and reporting functions. In preparing his inspection programmes and framework, the Chief Inspector must consult the Secretary of State and the other inspection authorities.
609. Under paragraph 5, if an inspectorate proposes an inspection that the Chief Inspector considers would impose an unreasonable burden on a "specified institution", he must give notice that it should not proceed or should not proceed in the manner proposed. "Specified institutions" will be listed by order but must be services the Chief Inspector inspects or regulates as registration authority. Where such notice has been given, the proposed inspection activity is prevented from taking place or from taking place in the planned manner. However, should the Secretary of State subsequently be satisfied that the proposed inspection would not impose an unreasonable burden or would not do so if carried out in another way, it can proceed. In this way the Chief Inspector will be able to minimise the burdens on institutions for which he has responsibility. The other public service inspectorates will be under similar duties for organisations or institutions they inspect or regulate.
610. *Paragraph 6* requires the Chief Inspector to co-operate with the inspection authorities or another public authority. *Paragraph 7* enables the Chief Inspector to act jointly with another public authority, and *paragraph 8* enables him to provide advice or assistance to other public authorities. *Paragraph 9* allows the Chief Inspector to make arrangements with a public authority to carry out inspections in England, Wales or Northern Ireland.
611. *Paragraph 10* enables the Chief Inspector, with the consent of the Secretary of State, to make charges for acting under paragraph 8 or 9.

### ***Section 150: Evidence of authority***

612. Any person who is authorised to exercise a power of entry or inspection on behalf of the Chief Inspector (in accordance with paragraph 9 of Schedule 12: the Chief Inspector and other inspectors etc.) must, if required to do so, produce evidence of his authority to exercise the power.

### ***Section 151: Publication of inspection reports***

613. This section provides that, for the purposes of the law of defamation, a report made by the Chief Inspector is privileged unless shown to have been made with malice. *Subsection (2)* allows a report of the Chief Inspector to be published only by electronic means.

***Section 152: Combined reports***

614. This section allows the Chief Inspector (to the extent he considers it appropriate) to combine the reports of inspections carried out under two or more of his inspection functions, and to produce them as a combined report. This provision gives the Chief Inspectors and others responsible for making inspection reports the flexibility to merge two or more reports into a single report. For example, when acting under the Childcare Act 2006) he may combine reports of inspections of compulsorily registered early years provision and of compulsorily registered later years provision, or where he carries out education and welfare inspections of an independent school. He can also make a combined report which includes a report made by another person.

***Section 153 – Use of information***

615. This section enables information obtained in connection with one of the Chief Inspector's functions to be used in connection with any other of his functions. The section will assist the Chief Inspector in reducing bureaucracy through not making duplicate requests for information; for example, not asking both schools and local authorities for the same information when undertaking his inspection functions.