



# Education Act 2005

## 2005 CHAPTER 18

### PART 1

#### SCHOOL INSPECTIONS AND OTHER INSPECTIONS BY SCHOOL INSPECTORS

### CHAPTER 3

#### SCHOOL INSPECTORS AND SCHOOL INSPECTIONS: WALES

##### *Her Majesty's Inspectorate for Wales*

### 19 Her Majesty's Inspectorate of Education and Training in Wales

- (1) Her Majesty may by Order in Council appoint a person to the office of Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru ("the Chief Inspector").
- (2) Her Majesty may by Order in Council appoint persons as Her Majesty's Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.
- (3) Any person appointed as one of Her Majesty's Inspectors of Education and Training in Wales is to serve, in accordance with the terms and conditions on which he is appointed, as a member of the staff of the Chief Inspector.
- (4) The Chief Inspector holds and vacates office in accordance with the terms of his appointment, but—
  - (a) must not be appointed for a term of more than five years,
  - (b) may at any time resign by giving written notice to the Assembly, and
  - (c) may be removed from office by Her Majesty on the ground of incapacity or misconduct.

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- (5) The previous appointment of a person as Chief Inspector does not affect his eligibility for appointment.
- (6) If the Assembly considers that any of the powers conferred by subsection (1), (2) and (4)(c) ought to be exercised, the Assembly must advise the Secretary of State on any recommendation to be made to Her Majesty as to the exercise of the power.
- (7) The terms of a person's appointment under subsection (2) are to be determined by the Chief Inspector with the approval of the Assembly.
- (8) Schedule 2 makes further provision about the Chief Inspector and his staff.

## **20 Functions of Chief Inspector**

- (1) The Chief Inspector has the general duty of keeping the Assembly informed about—
  - (a) the quality of the education provided by schools in Wales,
  - (b) how far that education meets the needs of the range of pupils at those schools,
  - (c) the educational standards achieved in those schools,
  - (d) the quality of the leadership in and management of those schools, including whether the financial resources made available to those schools are managed efficiently,
  - (e) the spiritual, moral, social and cultural development of pupils at those schools, and
  - (f) the contribution made by those schools to the well-being of those pupils.
- (2) When asked to do so by the Assembly, the Chief Inspector must—
  - (a) give advice to the Assembly on such matters as may be specified in the Assembly's request, and
  - (b) inspect and report on such school, or class of school, in Wales as may be so specified.
- (3) In addition, the Chief Inspector has the following specific duties—
  - (a) establishing and maintaining the register mentioned in section 25(1);
  - (b) giving guidance to inspectors registered in that register, and such other persons as he considers appropriate, in connection with inspections of schools in Wales under section 28 and the making of reports of such inspections;
  - (c) keeping under review the system of inspecting schools under that section and, in particular, the standard of such inspections and of the reports made by registered inspectors;
  - (d) keeping under review the extent to which any requirement imposed by or under this Part, or any other enactment, on any registered inspector, local education authority, proprietor of a school or governing body in relation to inspections of schools in Wales is complied with;
  - (e) promoting efficiency in the conduct and reporting of inspections of schools in Wales by encouraging competition in the provision of services by registered inspectors.
- (4) The Chief Inspector may at any time give advice to the Assembly on any matter connected with schools, or a particular school, in Wales.

- (5) The Chief Inspector is to have such other functions in connection with schools in Wales, including functions with respect to the training of teachers for such schools, as may be assigned to him by the Assembly.
- (6) In exercising his functions, the Chief Inspector must have regard to such aspects of policy adopted or formulated by the Assembly as the Assembly may direct.
- (7) This section does not apply in relation to education which is brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21).

## **21 Annual and other reports to Assembly**

- (1) The Chief Inspector—
  - (a) must make an annual report to the Assembly,
  - (b) may make such other reports to the Assembly, with respect to matters which fall within the scope of his functions, as he considers appropriate, and
  - (c) may arrange for any report made by him under this section to be published in such manner as he considers appropriate.
- (2) The Assembly must publish any report that is made to it under subsection (1)(a).

## **22 Power of Assembly to establish advisory panel**

- (1) The Assembly may by regulations—
  - (a) establish a panel for the purpose of providing advice to the Assembly on matters relating to the functions that are at any time exercisable by the Chief Inspector under this Part or any other enactment, and
  - (b) make provision as to the functions of the panel.
- (2) The regulations may in particular—
  - (a) make provision about the appointment of members of the panel,
  - (b) make provision for remuneration and allowances to be paid to members of the panel,
  - (c) require the panel and the Chief Inspector to co-operate with each other,
  - (d) require the panel to make reports to the Assembly.

## **23 Powers of entry etc. of Chief Inspector**

- (1) For the purposes of the exercise of any function conferred by or under section 20, the Chief Inspector has at all reasonable times, in relation to any school in Wales—
  - (a) a right of entry to the premises of the school, and
  - (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for those purposes.
- (2) For the purposes of the exercise of any function conferred by or under section 20, the Chief Inspector has at all reasonable times—
  - (a) a right of entry to any premises (other than school premises) on which, by virtue of arrangements made by a school in Wales, any pupils who—
    - (i) are registered at the school, and

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- (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,
- are provided with part of their education by any person (“the provider”),
- (b) a right of entry to any premises of the provider used in connection with the provision by him of that education, and
- (c) a right to inspect and take copies of—
  - (i) any records kept by the provider relating to the provision of that education, and
  - (ii) any other documents containing information so relating,
 which the Chief Inspector requires for those purposes.
- (3) It is an offence intentionally to obstruct the Chief Inspector—
  - (a) in the exercise of his functions in relation to the inspection of a school for the purposes of section 20(2)(b), or
  - (b) in the exercise of any right under subsection (1) or (2) for the purposes of the exercise of any other function.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **24 Power of Chief Inspector to arrange for inspections**

- (1) The Chief Inspector may cause any school in Wales to be inspected by one or more of Her Majesty’s Inspectors of Education and Training in Wales (in this section referred to as “Inspectors”).
- (2) Where an inspection of a school in Wales is being conducted by a registered inspector under section 28, the Chief Inspector may arrange for that inspection to be monitored by one or more Inspectors.
- (3) An Inspector inspecting a school, or monitoring an inspection, under this section has at all reasonable times—
  - (a) a right of entry to the premises of the school,
  - (b) a right of entry to any other premises on which, by virtue of arrangements made by the school, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,
 are receiving part of their education from any person (“the provider”),
  - (c) a right of entry to any premises of the provider used in connection with the provision by him of that education,
  - (d) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions, and
  - (e) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of education for pupils registered at the school, and
    - (ii) any other documents containing information relating to the provision of such education by the provider,
 which the Inspector considers relevant to the discharge of his functions.

- (4) It is an offence intentionally to obstruct any Inspector in the exercise of any of his functions under this section.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) An inspection of a school conducted under subsection (1) may not extend to any education of a kind brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21) that is provided by the school.

### *Registered inspectors*

## **25 Registration of inspectors in Wales**

- (1) No person may conduct an inspection of any school in Wales under section 28 unless—
  - (a) he is a member of the Inspectorate, or
  - (b) he is registered as an inspector in a register kept by the Chief Inspector for the purposes of this Chapter.
- (2) The Chief Inspector may not register a person under this section unless, having regard to any conditions that he proposes to impose under subsection (4)(c), it appears to him that that person—
  - (a) is a fit and proper person for discharging the functions of a registered inspector, and
  - (b) will be capable of conducting inspections under this Chapter competently and effectively,and no person may be so registered if he falls within a category of persons prescribed for the purposes of this subsection.
- (3) An application for registration under this section—
  - (a) must be made in such manner, and be accompanied by such particulars, as the Chief Inspector may direct, and
  - (b) must be accompanied by the prescribed fee.
- (4) On an application duly made under this section the Chief Inspector may—
  - (a) register the applicant,
  - (b) refuse to register him, or
  - (c) register him subject to such conditions as the Chief Inspector considers it appropriate to impose.
- (5) The matters to which the Chief Inspector may have regard in deciding whether to register the applicant include, in particular—
  - (a) the extent to which the Chief Inspector proposes to exercise his discretion under subsection (1) of section 28 to secure that inspections under that section are conducted by members of the Inspectorate rather than registered inspectors, and
  - (b) the extent to which there is a need for registered inspectors in Wales.
- (6) Conditions under subsection (4)(c) may be conditions applying generally in relation to all cases, or particular classes of case, or such conditions together with specific conditions applying in the particular case.

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- (7) Where a person is registered subject to conditions imposed under subsection (4)(c), he is to be taken to be authorised to act as a registered inspector only so far as those conditions permit.
- (8) The period for which any registration is to have effect is to be determined by the Chief Inspector and must be entered in the register kept by him.
- (9) Nothing in subsection (8) is to be taken as preventing a registered inspector from applying for a fresh registration to take effect immediately on the expiry of his current registration.

## **26 Removal from register and imposition or variation of conditions**

- (1) If the Chief Inspector is satisfied that any of the conditions mentioned in subsection (2) is satisfied with respect to an inspector registered in the register, he may remove the name of that inspector from the register.
- (2) The conditions are that—
  - (a) he is no longer a fit and proper person for discharging the functions of a registered inspector under this Chapter;
  - (b) he is no longer capable of conducting inspections under this Chapter competently and effectively;
  - (c) there has been a significant failure on his part to comply with any condition imposed under section 25(4)(c) and subject to which his registration has effect;
  - (d) he has, without reasonable explanation, produced a report of an inspection which is, in whole or in part, seriously misleading.
- (3) If the Chief Inspector is satisfied—
  - (a) that he is authorised by subsection (2) to remove the name of an inspector from the register, or
  - (b) that it would otherwise be in the public interest to act under this subsection,
 he may vary any condition subject to which the registration of that inspector has effect or vary that registration by imposing a condition subject to which it will have effect.

## **27 Appeals in relation to registration**

- (1) Any person who is aggrieved by—
  - (a) the refusal of the Chief Inspector to renew his registration under section 25,
  - (b) the imposition or variation of any condition subject to which he is registered under that section, or
  - (c) the removal of his name from the register under section 26,
 may appeal against the Chief Inspector's decision to a tribunal constituted in accordance with Schedule 3.
- (2) Where—
  - (a) a decision to refuse to renew a person's registration under section 25 is expressed to be based on the ground—
    - (i) that there is a reduced need for registered inspectors in Wales, or
    - (ii) that there is no longer any need for registered inspectors in Wales, and
  - (b) the tribunal is satisfied that the decision was based on one of those grounds,

the tribunal must confirm the decision to refuse renewal.

- (3) No decision of the Chief Inspector falling within (1)(b) or (c) is to have effect until—
  - (a) the disposal of any appeal against the decision which is duly made under this section, or
  - (b) the period within which an appeal may be made has expired without an appeal having been made.
- (4) Subsection (3) does not apply where the Chief Inspector—
  - (a) is satisfied that the circumstances of the case justify the decision in question taking effect immediately, or earlier than would otherwise be the case, and
  - (b) notifies the person concerned to that effect.
- (5) On determining any appeal under this section, the tribunal may—
  - (a) confirm, reverse or vary the decision appealed against, or
  - (b) remit the case to the Chief Inspector with directions as to the action to be taken by him.
- (6) Schedule 3 makes further provision with respect to tribunals constituted to hear appeals under this section.

*Inspections by registered inspectors and members of the Inspectorate*

## **28 Duty to arrange regular inspections of certain schools**

- (1) It is the duty of the Chief Inspector to secure that every school in Wales to which this section applies is inspected under this section, at such intervals as may be prescribed, by an inspector registered under section 25 or by a member of the Inspectorate.
- (2) Subject to subsection (3), the schools to which this section applies are—
  - (a) community, foundation and voluntary schools,
  - (b) community and foundation special schools,
  - (c) maintained nursery schools, and
  - (d) special schools which are not community or foundation special schools but are for the time being approved by the Assembly under section 342 of the Education Act 1996 (c. 56) (approval of special schools).
- (3) This section does not apply to any school—
  - (a) which is a closing school (as defined by subsection (4)), and
  - (b) in respect of which the Chief Inspector has decided, having regard to the date on which the closure is to take effect, that no useful purpose would be served by the school being inspected under this section.
- (4) In subsection (3)(a) a “closing school” means—
  - (a) any community, foundation or voluntary school, community or foundation special school or maintained nursery school in respect of which proposals to discontinue the school have been approved, adopted or determined under any enactment,
  - (b) a foundation or voluntary school in respect of which the governing body have given notice of discontinuance under section 30 of the School Standards and Framework Act 1998 (c. 31),

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- (c) a community, foundation or voluntary or community or foundation special school in respect of which the Assembly has given a direction to discontinue the school under section 19 or 32 of that Act, or
  - (d) a special school which is not a community or foundation special school but is for the time being approved by the Assembly under section 342 of the Education Act 1996 (c. 56) and which the proprietor has decided to close.
- (5) It is the general duty of any inspector conducting an inspection under this section to report on—
- (a) the quality of the education provided in the school,
  - (b) how far the education provided in the school meets the needs of the range of pupils at the school,
  - (c) the educational standards achieved in the school,
  - (d) the quality of the leadership in and management of the school, including whether the financial resources made available to the school are managed effectively,
  - (e) the spiritual, moral, social and cultural development of the pupils at the school, and
  - (f) the contribution made by the school to the well-being of those pupils.
- (6) Subsection (1) has effect subject to section 32.
- (7) An inspection which is required under this section must not extend to—
- (a) denominational education,
  - (b) education which is brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21), or
  - (c) the content of collective worship which falls to be inspected under section 50.
- (8) Schedule 4 makes further provision with respect to inspections under this section.

### *Publication of inspection reports*

## **29 Publication of inspection reports**

- (1) The Chief Inspector may, in the case of—
- (a) any report by a member of the Inspectorate of an inspection carried out by him under any provision of this Chapter (whether the report is required by any such provision or is otherwise made in pursuance of his functions under that provision), or
  - (b) any report of an inspection under section 28 made by a registered inspector, arrange for the report to be published in such manner as the Chief Inspector considers appropriate.
- (2) Without prejudice to the generality of—
- (a) section 21(1)(c), or
  - (b) subsection (1),
- the Chief Inspector may arrange for a report to which that provision applies to be published by electronic means.



- (3) For the purposes of the law of defamation any report published by the Chief Inspector under either of those provisions is privileged unless the publication is shown to have been made with malice.
- (4) Subsection (3) does not limit any privilege subsisting apart from that subsection.

### *Receipts*

## **30 Payment of fees into Consolidated Fund**

- (1) Any sums received by the Chief Inspector under—
- (a) section 25(3)(b), or
  - (b) paragraph 4(3) or 5(2) of Schedule 4,
- must be paid into the Consolidated Fund.
- (2) Subsection (1) has effect subject to paragraph 4 of Schedule 6 to the Government of Wales Act 1998 (c. 38) (Treasury power to direct that requirement for payment into Consolidated Fund not to apply in relation to specified sums received by the Chief Inspector).

### *Interpretation of Chapter*

## **31 Interpretation of Chapter 3**

- (1) In this Chapter—
- “the Chief Inspector” means Her Majesty’s Chief Inspector of Education and Training in Wales;
  - “member of the Inspectorate” means the Chief Inspector, any of Her Majesty’s Inspectors of Education and Training in Wales and any additional inspector appointed under paragraph 2 of Schedule 2;
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made by the Assembly under this Chapter;
  - “well-being”, in relation to pupils at a school, is a reference to their well-being having regard to the matters mentioned in section 25(2) of the Children Act 2004 (c. 31).
- (2) For the purposes of this Chapter any reference to a condition imposed under section 25(4)(c) includes a reference to a condition imposed under section 26(3).