

*These notes refer to the Education Act 2002 (c.32)  
which received Royal Assent on 24 July 2002*

# EDUCATION ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### Part 9 – Childcare and Nursery Education

##### Nursery Education

##### *Section 155 and Schedule 14: Inspection of nursery education*

312. This section gives effect to Schedule 14 which amends Schedule 26 to the SSFA. The amendments cover the following:

- **Conduct of inspections by Inspectorate:** Nursery education is currently inspected by registered nursery inspectors, i.e. inspectors of nursery education placed on a register by HMCI in England or Her Majesty’s Chief Inspector of Education and Training in Wales (each referred to here as the “Chief Inspector”). The conditions governing such an inspector’s registration, removal from the register, appeal rights, etc. are contained in Schedule 26 to the SSFA. Ofsted intend that the majority of nursery education inspection work will, in future, be carried out by suitably qualified childcare inspectors who are Ofsted employees. It is not considered necessary for such employees, whose qualifications and activities are governed by their employment contract with Ofsted, to also be subject to the registration process currently described in Schedule 26 of the SSFA. The amendments make two main changes to the current regime.
- First, paragraph 1 of Schedule 14 makes an amendment to paragraph 6 of Schedule 26 of the SSFA which permits inspection to be carried either by registered nursery inspectors, as now, or by members of the inspectorate, which includes the Chief Inspector and his employees. This means that, for example, in relation to England, HMCI can use Ofsted employees (in particular, suitably qualified child care inspectors) to carry out such inspections without them having also to comply with provisions relating to registration which are inappropriate to an employee’s status.
- Second, paragraph 2 of Schedule 14 makes an amendment to paragraph 8 of Schedule 26, which changes the regime applying to registered nursery inspectors in order to give the Chief Inspector more control over who is placed on the register. At present, anyone may apply for registration and has a right to have his application considered and then to be registered if he fulfils statutory criteria.
- **Appeals:** The Registered Nursery Inspector’s Tribunal (RNIT) established by Schedule 26 to the SSFA, currently hears any appeal against the removal of a registered nursery inspector from the register, as well as a refusal to renew registration and any imposition or variation in conditions attaching to registration. Under Part 10A of the CA, the Tribunal established by section 9 of the POCA (the CST), when it is set up, will hear any appeal against the removal of early years child care inspectors from the register. This provision will enable registered nursery inspector appeals to be heard in England by the CST rather than the RNIT, giving a

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single point for appeals from early years child care inspectors and registered nursery inspectors against, among other matters, removal from the two registers.