

SCHEDULES

SCHEDULE 7

Section 53

INSPECTION OF CHILD MINDING, DAY CARE AND NURSERY EDUCATION

PART 1

CHILD MINDING AND DAY CARE: AMENDMENTS OF CHILDREN ACT 1989

- 1 (1) Section 79N of the Children Act 1989 (c. 41) (general functions of the Chief Inspector) is amended as follows.
 - (2) For subsection (1) substitute—

“(1) The Chief Inspector has the general duty of keeping the Secretary of State informed about—

 - (a) the quality and standards of child minding and day care provided in England,
 - (b) how far child minding and day care provided in England meet the needs of the range of children for whom they are provided,
 - (c) the contribution made by child minding and day care provided in England to the well-being of the children for whom they are provided, and
 - (d) the quality of leadership and management in connection with the provision of day care in England.

(1A) In subsection (1)(c), the reference to well-being is a reference to well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004.”
 - (3) In subsection (6)—
 - (a) for “subsection (7)(a) of section 2 of the School Inspections Act 1996” substitute “section 3(a) of the Education Act 2005”, and
 - (b) for “subsection (7)(b) of that section” substitute “section 3(b) of that Act”.
- 2 Omit section 79P of the Children Act 1989 (early years child care inspectorate for England).
- 3 (1) Section 79Q of the Children Act 1989 (inspection of provision of child minding and day care in England) is amended as follows.
 - (2) In subsection (1), for “provision” substitute “provider”.
 - (3) In subsection (2), omit “or secure the inspection by a registered inspector of”.
 - (4) In subsection (3), omit “or secure the inspection by a registered inspector of”.
 - (5) Omit subsection (4).

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- (6) After subsection (5) insert—
- “(5A) Regulations may make provision requiring a registered person, except in prescribed cases, to notify prescribed persons of the fact that any child minding or day care provided by the registered person is to be inspected under this section.”
- (7) For subsection (6) substitute—
- “(6) When conducting an inspection under this section the Chief Inspector shall report in writing on—
- (a) the quality and standards of the child minding or day care provided,
 - (b) how far the child minding or day care meets the needs of the range of children for whom it is provided,
 - (c) the contribution made by the child minding or day care to the well-being of the children for whom it is provided, and
 - (d) in the case of day care, the quality of leadership and management in connection with its provision.
- (6A) In subsection (6)(c), the reference to well-being is a reference to well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004.”
- (8) Omit subsection (7).
- 4 (1) Section 79R of the Children Act 1989 (c. 41) (reports of inspections) is amended as follows.
- (2) Omit subsections (1) and (2).
- (3) For subsection (3) substitute—
- “(3) Where the Chief Inspector reports on an inspection under section 79Q he—
- (a) may send a copy of the report to the Secretary of State, and shall do so without delay if the Secretary of State requests a copy;
 - (b) shall ensure that a copy of the report is sent to the registered person providing the child minding or day care that was inspected;
 - (c) shall ensure that copies of the report, or such parts of it as he considers appropriate, are sent to such other authorities or persons as may be prescribed; and
 - (d) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.”
- (4) After subsection (3) insert—
- “(3A) Regulations may make provision—
- (a) requiring a registered person to make a copy of any report sent to him under subsection (3)(b) available for inspection by prescribed persons,
 - (b) requiring a registered person, except in prescribed cases, to provide a copy of the report to prescribed persons, and
 - (c) authorising a registered person in prescribed cases to charge a fee for providing a copy of the report.”

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- (5) For subsection (4) substitute—
- “(4) Subsections (2) to (4) of section 11 of the Education Act 2005 (publication of inspection reports) shall apply in relation to the publication of a report under subsection (3) as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 11.”
- 5 (1) Section 79T of the Children Act 1989 (c. 41) (inspection: Wales) is amended as follows.
- (2) In subsection (2)(a), omit “the quality and standards of”.
- (3) In subsection (4), for “section 42A of the School Inspections Act 1996” substitute “section 29 of the Education Act 2005”.
- 6 In section 79U of the Children Act 1989 (rights of entry etc.), in subsection (4), for “Section 42 of the School Inspections Act 1996” substitute “Section 58 of the Education Act 2005”.

PART 2

NURSERY EDUCATION: AMENDMENTS OF SCHOOL STANDARDS AND FRAMEWORK ACT 1998

- 7 (1) Section 122 of the School Standards and Framework Act 1998 (c. 31) (inspection of nursery education) is amended as follows.
- (2) In subsection (3), for “the Chief Inspector” substitute “the Chief Inspector for Wales”.
- (3) In subsection (4), for ““the Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England or” substitute ““the Chief Inspector for Wales” means”.
- 8 Schedule 26 to the School Standards and Framework Act 1998 (inspection of nursery education) is amended as follows.
- 9 (1) Paragraph 1 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) before paragraph (a) insert—
- “(za) nursery education provided in a maintained school or a maintained nursery school;”
- (b) in paragraph (a), after “nursery education” insert “not falling within paragraph (za)”;
- (c) for paragraph (b) substitute—
- “(b) nursery education which is provided by any other person under arrangements made with that person by a local education authority in pursuance of the duty imposed on the authority by section 118 and in consideration of financial assistance provided by the authority under the arrangements.”
- (3) In sub-paragraph (2), for the words from “to whom” onwards substitute “with whom a local education authority are considering making arrangements in pursuance of the duty imposed on the authority by section 118 for the provision of nursery education in consideration of financial assistance provided by the authority under the arrangements”.

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- (4) For sub-paragraph (3) substitute—
- “(3) Where—
- (a) any education is for the time being provided at any premises for children who have not attained the age prescribed for the purposes of section 118(1)(b) (“the prescribed age”), and
- (b) that education is provided by a person—
- (i) who proposes to provide nursery education at those premises for children who have attained the prescribed age, and
- (ii) with whom a local education authority are considering making arrangements of the kind mentioned in sub-paragraph (2),
- the education is to be treated for the purposes of this Schedule as nursery education under consideration for funding even though it is provided for children who have not attained the prescribed age.”
- 10 (1) Paragraph 2 is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) In this Schedule—
- (a) “the Chief Inspector for England” means Her Majesty’s Chief Inspector of Schools in England,
- (b) “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales, and
- (c) “the Chief Inspector” (without more) means—
- (i) as respects nursery education provided in England, the Chief Inspector for England, and
- (ii) as respects nursery education provided in Wales, the Chief Inspector for Wales.”
- (3) In sub-paragraph (2), after “registered” insert “Welsh”.
- (4) For sub-paragraph (3) substitute—
- “(3) In this Schedule “members of the Welsh Inspectorate” means—
- (a) the Chief Inspector for Wales,
- (b) Her Majesty’s Inspectors of Education and Training in Wales, and
- (c) additional inspectors with whom the Chief Inspector for Wales has made arrangements to give him assistance under paragraph 2 of Schedule 2 to the Education Act 2005.”
- (5) Omit sub-paragraph (4).
- (6) At the end insert—
- “(5) In this Schedule “well-being”—
- (a) in relation to children for whom nursery education is provided in England, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004, and

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- (b) in relation to children for whom such education is provided in Wales, is a reference to their well-being having regard to the matters mentioned in section 25(2) of that Act.”

- 11 In paragraph 3, before the “and” immediately following paragraph (a) insert—
- “(aa) how far relevant nursery education meets the needs of the range of children for whom it is provided,
 - (ab) the quality of leadership and management in connection with the provision of relevant nursery education,
 - (ac) the contribution of relevant nursery education to the well-being of the children for whom it is provided.”.

- 12 For paragraphs 6 and 7 substitute—

“Inspections in England

- 6A (1) The Chief Inspector for England—
- (a) shall at such intervals as may be prescribed inspect relevant nursery education provided in England,
 - (b) shall inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any time when the Secretary of State requires the Chief Inspector for England to secure its inspection, and
 - (c) may inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any other time when the Chief Inspector for England considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 5 of the Education Act 2005 (inspections of certain schools) applies.
- (3) A requirement such as is mentioned in sub-paragraph (1)(b) may be imposed in relation to nursery education provided at particular premises or a class of premises.
- (4) Regulations may make provision requiring the responsible person to notify prescribed persons of the fact that relevant nursery education or nursery education under consideration for funding provided by the responsible person is to be inspected under this paragraph.
- (5) In sub-paragraph (4) “the responsible person”, in relation to any relevant nursery education or nursery education under consideration for funding, means such person as may be prescribed.

Inspections in Wales

- 6B (1) The Chief Inspector for Wales—
- (a) shall secure that relevant nursery education provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at such intervals as may be prescribed,
 - (b) shall secure that relevant nursery education, or nursery education under consideration for funding, provided in Wales

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is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any time when the National Assembly for Wales requires the Chief Inspector for Wales to secure its inspection, and

- (c) may secure that any relevant nursery education, or nursery education under consideration for funding, provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any other time when the Chief Inspector for Wales considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 28 of the Education Act 2005 (duty to arrange regular inspections of certain schools) applies.
 - (3) The Chief Inspector for Wales may comply with sub-paragraph (1) either by organising inspections or by making arrangements with others for them to organise inspections.
 - (4) A requirement such as is mentioned in sub-paragraph (1)(b) may relate to nursery education provided at particular premises or a class of premises.

Reports of inspections under paragraph 6A or 6B

- 7 A person conducting an inspection under paragraph 6A or 6B shall report on—
- (a) the quality and standards of the nursery education provided,
 - (b) how far that nursery education meets the needs of the range of children for whom the education is provided,
 - (c) the quality of leadership and management in connection with the provision of the nursery education,
 - (d) the contribution made by that nursery education to the well-being of those children, and
 - (e) so far as it is reasonably practicable to do so, the spiritual, moral, social and cultural development of the children for whom the nursery education is provided.”

13 At the end of the heading before paragraph 8 insert “for Wales”.

14 (1) Paragraph 8 is amended as follows.

- (2) In sub-paragraph (1), omit the words from the beginning to “England and”.
- (3) After “Chief Inspector” wherever occurring in sub-paragraphs (2) to (8) insert “for Wales”.
- (4) In sub-paragraph (2)—
 - (a) for “6” (in both places) substitute “6B”, and
 - (b) in paragraph (a), after “registered” insert “Welsh”.
- (5) In sub-paragraph (3)—
 - (a) in paragraph (a), after “registered” insert “Welsh”, and
 - (b) in paragraph (b), for “6” substitute “6B”.
- (6) In sub-paragraph (5), omit “England and”.

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- (7) In sub-paragraph (7), for “registered nursery education inspector” substitute “registered Welsh nursery education inspector”.
- 15 (1) Paragraph 9 is amended as follows.
- (2) In sub-paragraph (1), after “Chief Inspector” insert “for Wales”.
- (3) In sub-paragraph (2)—
- (a) in paragraph (a), after “registered” insert “Welsh”, and
- (b) in paragraphs (a) and (d), for “6” substitute “6B”.
- (4) In sub-paragraph (3), after “Chief Inspector” insert “for Wales”.
- (5) Omit sub-paragraph (5).
- 16 (1) Paragraph 10 is amended as follows.
- (2) In sub-paragraph (1), after “Chief Inspector” insert “for Wales”.
- (3) Omit sub-paragraph (1A).
- (4) For sub-paragraph (2) substitute—
- “(2) An appeal under sub-paragraph (1) shall be made to a tribunal with the same constitution as a tribunal to hear an appeal under section 27 of the Education Act 2005; and paragraph 2 (procedure) and paragraph 3 (staff) of Schedule 3 to that Act apply to tribunals to hear appeals under sub-paragraph (1) as they apply to tribunals to hear appeals under that section.”
- (5) In sub-paragraphs (4) and (5) after “Chief Inspector” insert “for Wales”.
- 17 For the heading before paragraph 11 substitute “Training of registered Welsh nursery education inspectors”.
- 18 (1) Paragraph 11 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) after “registered” insert “Welsh”, and
- (b) after “Chief Inspector”, in both places, insert “for Wales”.
- (3) In sub-paragraphs (2) and (3), after “Chief Inspector” insert “for Wales”.
- 19 In paragraph 12, for “6” substitute “6B”.
- 20 For paragraph 13 (and the heading immediately preceding it) substitute—

“Reports of inspections: England

- 13A (1) After an inspection under paragraph 6A, the Chief Inspector for England shall—
- (a) make a report in writing, and
- (b) ensure that a copy of the report is sent without delay—
- (i) to the responsible person, and
- (ii) to such other authorities and persons as may be prescribed.
- (2) Regulations may make provision—

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- (a) requiring the responsible person to make a copy of any report sent to him under sub-paragraph (1)(b)(i) available for inspection by prescribed persons,
 - (b) requiring the responsible person to provide a copy of the report to prescribed persons, and
 - (c) authorising the responsible person in prescribed cases to charge a fee for providing a copy of the report.
- (3) In sub-paragraph (2) “responsible person” has the meaning given by paragraph 6A(5).
- (4) Subsections (2) to (4) of section 11 of the Education Act 2005 shall apply in relation to the publication of any such report in relation to England as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.

Reports of inspections: Wales

- 13B (1) Where a person has conducted an inspection under paragraph 6B he shall make his report in writing to the Chief Inspector for Wales within such period as may be prescribed, subject to any extension not exceeding three months which the Chief Inspector for Wales may consider necessary.
- (2) Once the report of an inspection has been made to the Chief Inspector for Wales under sub-paragraph (1) he shall without delay send a copy to such authorities and persons as may be prescribed.
- (3) Regulations may require any prescribed person to whom a copy of the report is sent under subsection (2) to make a copy of the report available for inspection by prescribed persons.
- (4) Subsections (2) to (4) of section 29 of the Education Act 2005 shall apply in relation to the publication of any such report in relation to Wales as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.”

21 For paragraph 14 substitute—

- “14 (1) The annual report of the Chief Inspector for England required by paragraph (a) of section 3 of the Education Act 2005 to be made to the Secretary of State shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by paragraph (b) of that section to make other reports to the Secretary of State includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.
- (2) The annual report of the Chief Inspector for Wales required by subsection (1)(a) of section 21 of the Education Act 2005 to be made to the National Assembly for Wales shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by subsection (1)(b) of that section to make other reports to the Assembly includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.”

22 In paragraph 16, for “6” substitute “6A or 6B”.

- 23 For paragraph 17 substitute—
- “17 Where an inspection in Wales is being conducted by a registered Welsh nursery education inspector under paragraph 6B, the Chief Inspector for Wales may arrange for the inspection to be monitored by one or more members of the Welsh Inspectorate.”
- 24 (1) Paragraph 18 is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) This paragraph applies to—
- (a) the Chief Inspector for England when conducting an inspection under paragraph 6A,
 - (b) a registered Welsh nursery education inspector or member of the Welsh Inspectorate conducting an inspection under paragraph 6B, or
 - (c) a member of the Welsh Inspectorate monitoring under paragraph 17 an inspection under paragraph 6B.”
- (3) For sub-paragraphs (3) and (4) substitute—
- “(3) Section 58 of the Education Act 2005 (inspection of computer records for the purposes of Part 1 of that Act) shall apply for the purposes of this paragraph as it applies for the purposes of Part 1 of that Act.
- (4) It shall be an offence—
- (a) intentionally to obstruct the Chief Inspector for England in the exercise of his functions in relation to an inspection under paragraph 6A, or
 - (b) intentionally to obstruct a member of the Welsh Inspectorate or a registered Welsh nursery education inspector in the exercise of his functions in relation to an inspection under paragraph 6B.”