

# EDUCATION AND INSPECTIONS ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY

#### Part 8 – Inspections

528. This Part of the Act provides for the establishment of the Office for Standards in Education, Children's Services and Skills and a new office of Chief Inspector of Education, Children Services and Skills. The new arrangements bring together the existing remit of HM Chief Inspector of Schools in England, the children's social care remit of the Commission for Social Care Inspection, the Children and Family Court Advisory and Support Service inspection remit of Her Majesty's Inspectorate of Court Administration and the inspection remit of the Adult Learning Inspectorate.
529. The Government announced in March 2005 the intention to reduce the number of public service inspectorates from eleven to four, with the aim of enabling better co-ordination and reduced duplication, better and wider identification and promulgation of best practice, a greater ability to track the experience of users across service and institutional boundaries and the ability to prioritise work within larger bodies to focus on emerging concerns.
530. The following definitions are used in these notes in relation to Part 8:
- *The Office* means the Office for Standards in Education, Children's Services and Skills
  - *Chief Inspector* means Her Majesty's Chief Inspector of Education, Children's Services and Skills
  - *HMI* means Her Majesty's Inspectors of Education, Children's Services and Skills
  - *CSCI* means the Commission for Social Care Inspection
  - *CAFCASS* means the Children and Family Court Advisory and Support Service
  - *ALI* means the Adult Learning Inspectorate
    - *HMICA* means Her Majesty's Inspectorate of Court Administration.

#### 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)*.

### ***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.

## ***Chapter 2 – General transfer of functions***

### ***Section 122: General transfer of functions to the Chief Inspector***

552. This section transfers to the Chief Inspector all functions of the existing HM Chief Inspector of Schools in England (subject to any changes made by Part 8). The functions include inspections of schools, the inspection and regulation of child minding, day care and nursery education, inspection of independent schools and inspection of teacher training provision.

## ***Chapter 3 – Inspection of Further Education and Training etc***

553. This Chapter covers the inspection of further education colleges and other education and training providers. It also covers area inspections, which are concerned with the provision of education or training, in a specified area in England, for persons who are aged 15 or over but under 19.

### ***Section 123: Education and training to which this Chapter applies***

554. This section sets out the education and training to which the Chapter applies.
555. *Subsection (1)* sets out the kinds of education and training which will be within the Chief Inspector's remit, of which some are currently within the remit of ALI and some

are already within the remit of the Chief Inspector of Schools. These will include further education and work-based training. There is also provision for such other education or training as may be prescribed by regulations made by the Secretary of State to be brought into the Chief Inspector's remit.

- 556. *Subsection (2)* provides that the training which may be prescribed under *subsection (1)(h)* can include the training of teachers and trainers.
- 557. *Subsection (3)* allows the provision of information and adult guidance, or the provision of any description of such information, advice and guidance to be treated as training for the purposes the Chapter, if regulations so provide.

#### ***Section 124: Inspection of education and training to which this Chapter applies***

- 558. This section creates a duty for the Chief Inspector to inspect the education and training that is within his remit and is specified by the Secretary of State.
- 559. When the Chief Inspector has completed the inspection, he has a duty to make a written report on it. The report of an inspection must state whether the education and training inspected is of a quality adequate to meet the reasonable needs of those receiving it. The Chief Inspector must arrange for the report to be published. He must send copies to specified recipients. He may also send copies to anyone else he considers appropriate.

#### ***Section 125: Inspection of further education institutions***

- 560. This section requires the Chief Inspector to inspect all further education institutions. When the Chief Inspector has completed the inspection, he has a duty to report on it. The Chief Inspector's responsibilities with regard to a report of an inspection are as in section 116.

#### ***Section 126: Other inspections***

- 561. This section gives the Chief Inspector additional powers in relation to the education and training within his remit.
- 562. *Subsection (1)* gives the Chief Inspector power to inspect education and training in cases when he is not required to do so by virtue of any other provision, for example when he identifies a particular issue of concern. He may make a report of such an inspection and if he does so he may publish it. The Chief Inspector's responsibilities with regard to distribution of a report of such an inspection are as in section 124.
- 563. *Subsection (2)* gives the Chief Inspector the power to carry out inspections of further education and training that are commissioned and paid for by providers of education and training. It gives the Chief Inspector the power to inspect any education and training that is not in his remit if it is further education or training within the subsection and he is requested to do so by the provider of the education or training. He can charge for such an inspection. This section gives the Chief Inspector the power to make a report of such an inspection and the power to publish it. *Subsection (7)* enables the Chief Inspector to conduct inspections under subsection (2) outside the United Kingdom.

#### ***Section 127: Action plans***

- 564. This section covers the action to be taken after all inspections other than inspections commissioned under section 126(2). It requires the provider of the education and training inspected to provide a written action plan together with a timetable setting out when the action will be taken. The person must publish the plan within a period prescribed by regulations made by the Secretary of State and send copies to a list of persons so prescribed. .



565. *Subsection (4)* allows the Chief Inspector to waive the requirement for an action plan. He might do so where, for example, the standard of provision was particularly high and appropriate action was already underway and incorporated into existing plans.

### ***Section 128: Area inspections***

566. *Subsection (1)* requires the Chief Inspector, if requested by the Secretary of State to do so, to carry out an inspection covering the whole of a specified area (which would normally reflect the way in which local education authorities and/or local Learning and Skills Councils are organised territorially). He will be under a duty to inspect the quality and availability of provision in that area for persons aged 15 or over but under 19 as well as the standards they achieve. Included in the scope of the inspections are those who will reach the age of 15 in the current school year.
567. *Subsection (2)* allows the Chief Inspector to carry out such inspections without being requested to do so.
568. *Subsections (3) and (4)* extend the powers of the Chief Inspector so that he can investigate value for money issues.
569. *Subsection (5)* defines what education or training may be made the subject of an area inspection. Broadly this includes all 14-19 provision within the national curriculum, further education and work-based training.
570. *Subsections (6) and (7)* set out the duties and responsibilities of education and training providers as well as local education authorities in respect of supplying any information required for an area inspection.
571. *Subsection (8)* explains what is meant by the reference in *subsection (1)(a)* to persons who are aged 15.

### ***Section 129: Reports of area inspections***

572. This section makes it a requirement for the Chief Inspector to make a written report on completing an area inspection.
573. The Chief Inspector must also make arrangements for the report to be published. The report must be sent to the Secretary of State, the Learning and Skills Council for England and each local education authority whose area is wholly or partly within the area subject to the inspection. Copies may be sent to anyone else the Chief Inspector considers appropriate.

### ***Section 130: Action plans following area inspections***

574. This section covers the action to be taken following the publication of an area inspection report. It allows the Secretary of State to require either the Learning and Skills Council or a local education authority to prepare a written action plan, together with a timetable setting out when the action will be taken by them. The Learning and Skills Council or local education authority must publish the plan within a specified period (which it is expected will not normally exceed three months from the date of publishing the inspection report) and send copies to a list of persons – both the timeframe and list of persons to be prescribed by regulations.

### ***Section 131: Power of entry***

575. This section gives a power of entry to the Chief Inspector when conducting any inspections under Chapter 3 except those commissioned by providers. It gives him the power to enter premises where the education or training to be inspected is provided or which are used in connection with the provision of the education or training.

576. *Subsection (3)* provides that any right to access an employer's premises can only be exercised if reasonable notice has been given in writing.

***Section 132: Power to inspect documents, etc.***

577. This section provides that, where the Chief Inspector exercises his power of entry under section 131 (power of entry) for the purpose of carrying out an inspection, he may require the production of documents, including computer records and inspect and take copies of documents and remove them from the premises under inspection. He may also inspect computers and he may require assistance from a person operating a computer.
578. The section provides that obstructing the exercise of the powers under this section or section 131, or failing to comply with a requirement under this section, without reasonable excuse is an offence for which a person is liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500).

***Section 133: Framework for inspections***

579. This section requires a framework or frameworks to be devised and published by the Chief Inspector. The framework or frameworks will lay out a common set or sets of principles which cover all inspections conducted under this Chapter. It allows the Chief Inspector to revise the framework and he must publish any revised framework.

***Section 134: Abolition of Adult Learning Inspectorate***

580. This section abolishes the Adult Learning Inspectorate on the appointed day as all of its inspection functions will in future be performed by the Chief Inspector

***Chapter 4 – Inspection and review of Local Authorities in England***

***Section 135: Functions to which this Chapter applies and related activities***

581. **Chapter 4** makes provision for the Chief Inspector to undertake inspections and annual reviews of the performance of local authorities' functions, and sets out which of those functions are within the Chief Inspector's remit for these purposes. The functions within the Chief Inspector's remit are those listed in paragraphs (a) to (e) of *subsection (1)*, and such other functions as may be prescribed by regulations by the Secretary of State under *subsection (1)(f)*. The functions under the Children Act 2004 mentioned in *subsection (1)(c)* include the appointment of a director and lead member for children's services. The Chief Inspector's powers of inspection and review include powers in relation to the exercise by local authorities of their general powers to promote the economic and social well-being of their areas under the Local Government Act 2000 (see the definition of "related activity" in *subsections (2) to (4)*).

***Section 136: Inspection of local authorities in England***

582. This section sets out the general inspection duties of the Chief Inspector in respect of the performance of local authorities' functions to which the Chapter applies. The functions to be inspected are as set out in the note on section 135 (local authority functions to which this Chapter applies).
583. The Chief Inspector may carry out an inspection of the performance of the functions, including anything done in pursuance of those functions under arrangements made by the local authority (see section 142). This will enable the Chief Inspector to inspect (for example) any of a local authority's children's social services functions that are discharged through arrangements with private or charitable providers of children's homes. In carrying out his inspection the Chief Inspector must also inspect any related activities.

584. The section also requires the Chief Inspector to carry out an inspection of a specified local authority where the Secretary of State requests him to do so (*subsection (3)*). The inspection may cover all of the local authority functions to which Chapter 4 applies, or such functions as are specified in the Secretary of State's request.

***Section 137: Reports of inspections under section 136***

585. This section provides for the Chief Inspector to make a written report of any inspection of a local authority conducted under section 136 (inspection of local authorities in England). The Chief Inspector must send a copy of the report to the local authority and the Secretary of State. The local authority must prepare a written statement setting out the action it proposes to take in the light of the report and the timetable for doing so. The authority must publish the report, and action plan, in accordance with regulations to be made by the Secretary of State.
586. The Chief Inspector may publish the report in such manner as he considers appropriate.

***Section 138: Annual reviews of local authorities in England***

587. This section sets out the requirement for the Chief Inspector to undertake an annual review of local authorities' performance of functions to which the Chapter applies and of related activities (see section 135: functions to which this Chapter applies and related activities). Having carried out such a review the Chief Inspector is required to award a performance rating for each authority. The intention is that these performance ratings will feed, alongside ratings for other services, into the annual comprehensive performance assessment for local authorities which is led by the Audit Commission.
- Section 99 of the Local Government Act 2003 provides that the Audit Commission must from time to time produce a report on its findings in relation to the performance of English local authorities in exercising their functions, and that the report must categorise each local authority according to how the authority has performed in exercising its functions.

***Section 139: Power of entry***

588. This section provides the Chief Inspector with a power of entry for the purpose of carrying out inspections of local authorities under section 136 (inspection of local authorities in England), or annual reviews of local authorities under section 138.
589. The inspector may at any reasonable time enter any premises for the purposes of the inspection or review, though his power does not extend to domestic premises within the meaning in this Part (see section 159) unless those premises are a school.

***Section 140: Power to inspect documents etc.***

590. This section provides that, where the Chief Inspector exercises his power of entry for the purpose of carrying out inspections of local authorities under section 136 (inspection of local authorities in England), or annual reviews of local authorities under section 138, he may require the production of documents, including computer records; inspect, take copies or remove them from the premises; inspect computers; and inspect the state and management of the premises.
591. The section provides that a person who, without reasonable excuse, obstructs the exercise of powers under this section or section 139, or fails to comply with a requirement under this section, is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500) (*subsection (9)*).

***Section 141: Power to require information etc.***

592. This section provides that the Chief Inspector may at any time ask for information relating to the functions he inspects under this Chapter or related activities (see



section 135: functions to which this Chapter applies and related activities), from a local authority in England (as defined in section 159: interpretation), or anyone delivering those functions under arrangements made by the local authority.

593. A person who, without reasonable excuse, fails to comply with requirements of the section is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

#### ***Section 142: Interpretation etc.***

594. This section sets out various definitions required for the purposes of Chapter 4.

### ***Chapter 5 – Inspection of CAFCASS functions***

#### ***Section 143: Inspection of CAFCASS functions***

595. This section makes it a duty for the Chief Inspector to inspect the performance of the Children and Family Court Advisory and Support Service, which is at present a function of HMICA). The Chief Inspector is required to produce a written report of any inspection and send copies to the Secretary of State and CAFCASS. The Chief Inspector must publish the report in such a manner as he considers appropriate.

#### ***Section 144: Power of entry***

596. This section gives the Chief Inspector the power to enter any premises occupied by CAFCASS and any organisations or individuals contracted to carry out functions on behalf of CAFCASS. The Chief Inspector does not have the right to enter private dwellings. The power of entry may be exercised at reasonable times only.

#### ***Section 145: Power to inspect documents etc.***

597. This section gives the Chief Inspector the power to inspect, take copies of or take away documents held by CAFCASS or relating to the performance of CAFCASS functions which he considers relevant for the purposes of the inspection.
598. *Subsection (3)(b)* ensures that documents kept by means of a computer are produced in a legible form in which they can be taken away (for example, by means of a printout).
599. *Subsection (4)* entitles the Chief Inspector to have access to, inspect or check the operation of any computers (or other apparatus) used to produce the documents which he has the power to inspect, and he may require a person with responsibility for a computer to assist him.
600. Where a computer is kept on domestic premises (for example by an officer of the Service, as defined in section 144(4)), *subsections (5) to (7)* give the Chief Inspector the power to take possession of the computer and retain it for as long as he considers necessary, but then require him to return it.
601. *Subsection (8)* provides that the powers under this section can be exercised at reasonable times only.

### ***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.

## ***Chapter 7 – Miscellaneous and supplementary***

### ***Section 154: Duty to report on contribution of certain schools to community cohesion***

616. This section adds to the six areas currently covered by inspection reports under section 5 of the 2005 Act an additional element covering community cohesion. Inspection reports under that section will now need to cover:

- (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,
- (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,
- (f) the contribution made by the school to the well-being of those pupils, and
- (g) the contribution made by the school to community cohesion.

***Section 155: Payment of annual fee to the Chief Inspector by local authorities***

617. This section re-enacts provision that was formerly contained in section 51 of the Care Standards Act 2000. The Secretary of State may make regulations requiring a local authority in England to pay a fee to the Office in respect of its “relevant functions”. The Chief Inspector may make a scheme setting the fee level for periods when no regulations made by the Secretary of State are in force. The section is intended to place local authorities on the same footing as independent providers of such services. “Relevant functions” are defined in Part 3 of the Care Standards Act 2000 as adoption and fostering functions. “Local authority in England” is defined in Section 159.

***Section 156: Removal of HMICA’s duty to inspect performance of Assembly’s functions relating to family proceedings***

618. This section repeals section 38 of the Children Act 2004. Accordingly it removes the duty on HMCI to inspect and report on the carrying out of the functions of the National Assembly for Wales in respect of family proceedings (pursuant to section 35 of the Children Act 2004) when requested to do so by the National Assembly for Wales. It is expected that, in practice, the Social Services Inspectorate Wales (a part of the National Assembly for Wales) will undertake inspection of those functions.

***Section 157: Minor and consequential amendments***

619. This section gives effect to Schedule 14.

***Schedule 14: Minor and consequential amendments relating to Part 8***

620. This Schedule makes consequential amendments, chiefly to provide for the Chief Inspector to take over functions of CSCI (in relation to children’s social care), ALI and HMICA (in relation to the inspection of CAFCASS).
621. For example, the Care Standards Act 2000 is amended with the effect that CSCI remains the registration authority under Part 2 of that Act in respect of care homes, domiciliary care agencies, and nurse agencies and the Chief Inspector becomes the registration authority in respect of children’s homes, residential family centres, fostering agencies, voluntary adoption agencies, and adoption support agencies.
622. The Health and Social Care (Community Health and Standards) Act 2003 is amended with the effect that CSCI is to be responsible for reviews and investigations of English local authority social services so far they are not inspected by the Chief Inspector under Chapter 4 of this Part of this Act.

***Section 158: Transitional provisions***

623. This section gives effect to Schedule 15.

***Schedule 15: Transitional provisions relating to Part 8***

- 624. *Paragraph 1* contains a power for the Secretary of State to make a scheme for staff of the ALI and the CSCI (who are not currently civil servants) to become staff of the Office. The Schedule provides that the scheme may contain provisions as to continuity of employment.
- 625. *Paragraph 2* contains a power for the Secretary of State to make a property transfer scheme, transferring to the Office or the Chief Inspector any property, rights and liabilities of the existing HM Chief Inspector of Schools, the Secretary of State, the Lord Chancellor, ALI or CSCI. Sub-paragraph (2) allows for the possibility of property, rights and liabilities of the ALI being transferred to a person other than the Office or the Chief Inspector.
- 626. *Paragraph 5* allows a scheme to contain supplementary, incidental, transitional or consequential provision.
- 627. *Paragraph 7* allows for the Office and HM Chief Inspector of Schools to prepare for the exercise of the Chief Inspector's functions of the Office under this Part. The Office may be established before the Chief Inspector acquires his functions under this Part and other enactments. The Secretary of State may make regulations which confer functions on the Office and HM Chief Inspector of Schools in England in respect of the period from the establishment of the Office to the day on which the Chief Inspector acquires his functions.

***Section 159: Interpretation of Part 8***

- 628. This section defines various expressions for the purposes of Part 8. In particular, it defines the local authorities in England to which the Part applies. They are county councils, and those "unitary" authorities in England which have education and children's services functions and certain functions under the Children Act 2004.