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STATUTORY INSTRUMENTS

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**2012 No. 1293**

**EDUCATION, ENGLAND**

**The Education (Exemption from School Inspection) (England) Regulations 2012**

<i>Made</i>	- - - -	<i>15th May 2012</i>
<i>Laid before Parliament</i>		<i>18th May 2012</i>
<i>Coming into force</i>	- -	<i>8th June 2012</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 5(4A) and 120(2)(a) of the Education Act 2005(1).

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (Exemption from School Inspection) (England) Regulations 2012 and come into force on 8th June 2012.

(2) These Regulations apply in relation to schools in England only.

**Interpretation.**

2. In these Regulations –

“the 2005 Act” means the Education Act 2005; and

“the 2010 Act” means the Academies Act 2010(2).

**Categories of school prescribed for the purposes of section 5(4A) of the 2005 Act**

3.—(1) The categories of school that are prescribed for the purposes of section 5(4A) of the 2005 Act are those falling within the following subsections of section 5(3) of that Act—

(a) subsection (2)(a) (community, foundation and voluntary schools);

(b) subsection (2)(d) (Academy schools) subject to paragraph (2) of this regulation;

(c) subsection (2)(e) (city technology colleges); and

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(1) [2005 c.18](#). Section 5(4A) was inserted by section 40 of the Education Act [2011 \(c.21\)](#) (“the 2011 Act”). See section 12 of the Education Act 2005 (“the 2005 Act”) for the definitions of “prescribed” and “regulations”.

(2) [2010 c. 32](#).

(3) Section 5 of the 2005 Act was also amended by: paragraph 23 of Schedule 7 to the Education and Inspections Act [2006 \(c.40\)](#); paragraphs 25 and 26 of Schedule 1 to the Education and Skills Act [2008 \(c. 25\)](#); paragraphs 16 and 17 of Schedule 2 to the 2010 Act; and section 41 and paragraphs 1, 2 and 15 of Schedule 13 to the 2011 Act.

(d) subsection (2)(f) (city colleges for the technology of the arts).

(2) An Academy school is not a prescribed category of school if it is an educational institution of the kind described in section 1A(2) of the 2010 Act(4).

**Circumstances prescribed for the purposes of section 5(4A) of the 2005 Act**

4.—(1) The circumstances prescribed for the purposes of section 5(4A) of the 2005 Act are the circumstances set out in paragraphs (2) and (3).

(2) The school’s overall effectiveness was awarded the highest grade in the school’s most recent inspection under section 5 of the 2005 Act.

(3) In the case of a school which is an Academy school that has not previously been inspected under section 5 of the 2005 Act and has a predecessor school—

- (a) its predecessor school’s overall effectiveness was awarded the highest grade in its last inspection under section 5; or
- (b) if that Academy school has two or more predecessor schools, each predecessor school’s overall effectiveness was awarded the highest grade in its last inspection under section 5.

(4) In this regulation—

- (a) a reference to an inspection under section 5 of the 2005 Act includes a reference to an inspection under section 8 of that Act (other inspections) which has been treated by the Chief Inspector(5) as an inspection under section 5(6); and
- (b) a reference to an Academy school’s “predecessor school” is a reference to—
  - (i) the school that was discontinued and which that Academy school replaced; or
  - (ii) the maintained school which converted into that Academy school in accordance with section 4 of the 2010 Act(7).

15th May 2012

*Nick Gibb*  
Minister of State  
Department for Education

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(4) Section 1A was inserted by section 53(4) of the 2011 Act.  
(5) See section 12 of the 2005 Act for the meaning of Chief Inspector.  
(6) Section 9 of the 2005 Act provides the circumstances in which an inspection under section 8 of that Act may be treated as an inspection under section 5.  
(7) Section 4 of the 2010 Act provides that an Academy order in respect of a school is an order for the purpose of enabling the school to be converted into an Academy. A maintained school is “converted into” an Academy if Academy arrangements are entered into in relation to the school or the school that replaces it. “Academy arrangements” are defined at section 1 of the 2010 Act. Section 1A of the 2010 Act provides that an Academy which meets the requirements of that section is to be known as an Academy school.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 5(4A) of the Education Act 2005 (“the 2005 Act”) (inserted by section 40 of the Education Act 2011) which provides for the Chief Inspector’s duty under section 5 of the 2005 Act to inspect schools at certain intervals not to apply to certain categories of school in certain circumstances. Section 5(4B) of the 2005 Act provides that schools which are not subject to such routine inspection are known as “exempt schools”.

Regulation 3(1) provides that the categories of school that may be exempt from routine inspection are those falling within subsections (a), (d), (e) and (f) of section 5(2) of the 2005 Act, that is, community, foundation and voluntary schools; Academy schools; city technology colleges; and city colleges for the technology of the arts. The effect of regulation 3(2) is that an Academy school which is specially organised to make special educational provision for pupils with special educational needs cannot be capable of being an exempt school.

Under regulation 4, the circumstances in which a school falling within the categories set out in regulation 3 will be exempt are that the school’s overall effectiveness was judged to be in the highest category (currently the “outstanding” category) in its most recent inspection under section 5 of the 2005 Act. Where the school is an Academy school that has never been inspected under section 5, regulation 4 will exempt that Academy school if the overall effectiveness of its predecessor school was judged to be in the highest category. If that Academy school has more than one predecessor school, however, each predecessor school must have been awarded the highest category in its last inspection if the Academy is to be exempt. “Predecessor school” means the school which converted into an Academy under section 4 of the Academies Act 2010 or the school which was discontinued and which that Academy replaced (regulation 4).

An impact assessment has not been produced for this instrument as it has no impact on businesses or civil society organisations. The instrument has a minimal impact on the public sector.