EXPLANATORY MEMORANDUM TO

THE EDUCATION AND INSPECTIONS ACT 2006 (PRESCRIBED EDUCATION AND TRAINING ETC) (AMENDMENT) REGULATIONS 2021

2021 No. 11

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument clarifies the remit of the Chief Inspector of the Office for Standards in Education, Children's Services and Skills (Ofsted) in relation to post 16 education and training in England. It is concerned with the inspection of initial training of Further Education (FE) teachers (the programme of training undertaken by a new entrant into the FE teaching profession) and inspection of education or training for 16-19-year olds that is publicly funded but not delivered by institutions in the statutory FE sector[1].

2.2 In the existing regulations, the above areas are referred to as education and training that is funded by the Learning and Skills Council, and, in the case of initial training of Further Education teachers, by the Office for Students. This is no longer the case. This instrument therefore makes the necessary amendments to clarify that such education and training, now primarily funded by the Secretary of State, falls within the Chief Inspector's remit, and therefore that Ofsted can inspect it in line with their Initial Teacher Education Framework[2]. The instrument also amends other references to the Learning and Skills Council (for consistency) and the Quality Improvement Agency as they no longer exist.

3. Matters of special interest to Parliament

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

[1] As defined under section 91(3) Further and Higher Education Act 1992.

[2] https://www.gov.uk/government/publications/initial-teacher-education-ite-inspection-framework-and-handbook

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

6.1 Section 123(1)(a) to (g) of the Education and Inspections Act 2006 sets out the education and training which falls within the remit of the Chief Inspector. Under section 123(1)(h) of the Education and Inspections Act 2006, the Secretary of State may prescribe by regulations, such other education and training which falls within the remit of the Chief Inspector. Under section 123(2), the training which may be prescribed by regulations under section 123(1)(h) includes training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training falling within section 123(1)(a) to (g).

6.2 In addition, sections 127 and 130 make provision for the preparation and publication of written statements (action plans) following inspections, and for the time and manner of publication of the statements to be prescribed by regulations.

6.3 This instrument amends the Education and Inspections Act 2006 (Prescribed Education and Training etc) Regulations 2007 (S.I. 2007/464).

7. Policy background

What is being done and why?

7.1 Ofsted's role is to make sure that organisations providing education and training in England do so to a high standard for children and students. It achieves this through inspection of a range of educational provision on which it is required to publish inspection reports and other relevant information.

7.2 The power for Ofsted to inspect the initial education and training of FE teachers and educators is set out in regulation 3(1)(a) of the Education and Inspections Act 2006 (Prescribed Education and Training etc) Regulations 2007. Ofsted set out how they will undertake such inspections in the Initial Teacher Education (ITE) Framework, which applies to all publicly funded provision in England.

7.3 Ofsted's powers to inspect education provided for 16-19-year-old learners that is delivered other than in institutions within the statutory further education sector derives from regulation 3(1)(b) of the same regulations, which comes from the same powers. This is supported by the Education Inspection Framework[3].

7.4 Regulations 3(1)(a) and (b) currently refer to the Learning and Skills Council (which was closed in 2010) and 3(1)(a) to the Office for Students[4] as the funding bodies for training which falls within the scope of Ofsted inspection. These references are incorrect given that the Learning and Skills Council and the Office for Students no longer fund these areas of education and training. Such education and training is funded through Student Finance England by the Secretary of State.

[3] https://www.gov.uk/government/publications/education-inspection-framework

[4] A consequential amendment made through The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019, which came into force on 1 August 2019 replaced the reference to HEFCE with OfS.

7.5 The amendments also remove all references to the Quality Improvement Agency which closed in 2008. This Statutory Instrument does not represent a substantive change in policy.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 We have no plans to consolidate these regulations.

10. Consultation outcome

10.1 We have not undertaken a consultation as these changes are technical in nature and do not change current policy.

11. Guidance

11.1 No guidance is necessary as this is a technical amendment that makes no changes to the regulatory arrangements for Ofsted.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it is a technical amendment that makes no changes to the regulatory arrangements for Ofsted.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans for monitoring and review of this legislation as it is a technical amendment that makes no changes to the regulatory arrangements for Ofsted.

15. Contact

15.1 Laura Touhey at the Department for Education, email: Laura.TOUHEY@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kay Graham and/or Ian Valvona, Deputy Directors for Further Education Workforce, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Gillian Keegan at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.