

*These notes refer to the Education Act 2011 (c.21)
which received Royal Assent on 15 November 2011*

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Educational Institutions: Other Provisions

Standards

Section 40: School inspections: exempt schools

201. *Section 40* amends the current requirement under section 5 of EA 2005 for the Chief Inspector to inspect and report on every school in England at intervals prescribed in regulations. *Subsection (2)* provides for regulations to stipulate that certain schools (to be known as “exempt schools”) are to be exempt from inspection under section 5.
202. Exempt schools remain eligible for inspection under section 8 of EA 2005 and so may be subject to inspection as part of the Chief Inspector’s programme of surveys of curriculum subjects and thematic reviews, including those focused on best practice provision in schools. Exempt schools may also be inspected under this section in circumstances where the Chief Inspector or the Secretary of State has concerns about the performance of the school.
203. *Subsection (4)* allows the Chief Inspector to be able to charge for the cost of an inspection where the Chief Inspector inspects a school in response to a request from that school and the Chief Inspector is not required to inspect the school. Such an inspection must be treated as if it were an inspection under section 5. The provision is likely to be particularly relevant in cases where an exempt school is seeking an updated independent assessment of its performance, or where a school believes its performance has improved and wishes an early assessment of this.
204. *Subsection (5)* amends section 9 of EA 2005 to enable the Chief Inspector to treat an inspection of an exempt school conducted under section 8 as if it were an inspection under section 5, and to require the Chief Inspector to do so where requested by the Secretary of State.
205. *Subsection (9)* provides that, with the exception of the first set of regulations made under section 5 of EA 2005, regulations under section 5 are subject to the affirmative procedure.