

*These notes refer to the Education Act 2005 (c.18)  
which received Royal Assent on 7 April 2005*

# EDUCATION ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 1: School Inspections and Other Inspections by School Inspectors**

#### *Chapter 5 – Schools Causing Concern*

#### *Section 44: Categories of schools causing concern*

83. This section defines the two statutory categories of schools causing concern: those which require special measures and those which require significant improvement.
84. *Subsection (1)* provides a revised definition of the existing special measures category, with a school's capacity to improve now to be taken into account in inspectors' judgements. The definition in section 13(9) of SIA 1996 is that 'special measures are required to be taken in relation to a school if the school is failing, or likely to fail, to give its pupils an acceptable standard of education'. Schools will no longer be regarded as requiring special measures merely because they are 'likely to fail'. Special measures will be required only if the school is failing to provide an acceptable standard of education and the capacity to secure the necessary improvement is not demonstrated.
85. *Subsection (2)* introduces a new category of a school requiring significant improvement. Schools which would previously have been judged to have serious weaknesses, as defined in section 15 of the School Standards and Framework Act 1998, inadequate sixth forms, as defined in paragraph 1(2) of Schedule 7 of the Learning and Skills Act 2000, or to be underachieving, as defined in Ofsted guidance, are expected to fall into this new category.

#### *Section 45: Cases where Secretary of State or Assembly may direct closure of school*

86. This section amends section 19 of the School Standards and Framework Act 1998, as amended by section 56 of the Education Act 2002; the amendment curtails the power of the Secretary of State or the Assembly to direct a local education authority to close a school which is causing concern. At present the Secretary of State or the Assembly has such power in relation to schools which require special measures or have serious weaknesses. In future, this power will apply only in relation to a school which is placed in special measures.

#### *Section 46: Sixth forms requiring significant improvement*

87. This section introduces Schedule 5, which sets out amendments to the Learning and Skills Act 2000 arising from the new category of significant improvement.

#### *Schedule 5: Sixth forms requiring significant improvement*

88. This Schedule amends section 113 of and Schedule 7 to the Learning and Skills Act 2000. It replaces the current categorisation of 'inadequate sixth form' with a 'sixth

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form requiring significant improvement'. This reflects the new significant improvement category introduced by section 44. *Paragraph 3(3)* defines the circumstances in which a school requires significant improvement in relation to its sixth form: if it is failing to give pupils over 16 an acceptable standard of education; or if its performance in relation to provision for such pupils is less than might reasonably be expected. Other provisions in the Schedule continue existing arrangements in relation to sixth forms which give cause for concern, including the power of the Learning and Skills Council for England or the National Council for Education and Training for Wales to propose closure.

89. *Sub-paragraphs (11) to (14) of paragraph 3* provide for schools for 16-19 year old students in England and Wales to be judged to be causing concern following an inspection under section 5 and reflect the revised definition of special measures and the new category of significant improvement in section 44.