

*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 44: Schools causing concern: powers of Secretary of State

217. *Section 44* amends Part 4 of EIA 2006 which sets out the legal framework for maintained schools causing concern in England.
218. Under section 68 of EIA 2006 the Secretary of State can currently direct the closure of a school because the school “requires special measures” (section 62 of EIA 2006). *Subsection (2)* of this section amends section 68 of EIA 2006 to extend the situations in which the Secretary of State can direct the closure of a school.
219. The effect of this amendment is therefore that the Secretary of State will also be able to direct the closure of a school when a school has failed to comply with a performance standards or safety warning notice (as defined in section 60 of EIA 2006) and when a school has been identified as requiring significant improvement by the Chief Inspector and has been issued with a notice to improve (as defined in section 61 of that Act).
220. *Subsection (3)* of this section amends section 69A of EIA 2006. Section 69A currently gives the Secretary of State the power to direct a local authority to “consider” giving performance standards and safety warning notices in terms specified by him.
221. This amendment strengthens the Secretary of State’s power set out in section 69A so that where a local authority has been directed to consider giving a performance standards and safety warning notice and has decided not to do so, the Secretary of State may direct the authority to give a warning notice in specified terms. Where any warning notice has been given, whether following a direction or not, failure to comply with it would result in the school becoming eligible for intervention. The warning notice will inform the governing body of their right to make representations to the Chief Inspector against the giving of the warning notice. The Chief Inspector, as an independent body, may confirm the warning notice or otherwise.