



# Education Act 2002

## 2002 CHAPTER 32

### PART 5

#### SCHOOL ORGANISATION

##### *Academies and city colleges*

## 65 Academies

- (1) In the Education Act 1996 (c. 56), for section 482 (city technology colleges, city colleges for the technology of the arts and city academies) there is substituted—

### “482 Academies

- (1) The Secretary of State may enter into an agreement with any person under which—
- (a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England with the characteristics mentioned in subsection (2) and such other characteristics as are specified in the agreement, and
  - (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings.
- (2) The characteristics mentioned above are that the school—
- (a) has a curriculum satisfying the requirements of section 78 of the Education Act 2002, but with an emphasis on a particular subject area, or particular subject areas, specified in the agreement, and
  - (b) provides education for pupils of different abilities who are wholly or mainly drawn from the area in which the school is situated.
- (3) Before entering into an agreement under this section, the Secretary of State must consult the following about the establishment of the school—

*Status: Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) the local education authority in whose area the school is to be situated; and
  - (b) if the Secretary of State thinks a significant proportion of the pupils at the school is likely to be resident within the area of another local education authority, that authority.
- (4) An agreement under this section shall make any payments by the Secretary of State dependent on the fulfilment of—
- (a) conditions and requirements imposed for the purpose of securing that no charge is made in respect of admission to (or attendance at) the school or, subject to such exceptions as may be specified in the agreement, in respect of education provided at the school, and
  - (b) such other conditions and requirements in relation to the school as are specified in the agreement.
- (5) A school to which an agreement under this section relates shall be known as an Academy.
- (6) Schedule 35A (which makes provision about land in relation to Academies) has effect.”
- (2) In section 483 of that Act (financial provisions), in subsection (3) (agreements shall include provision for capital repayment), for “shall” there is substituted “ may ”.
- (3) Schedule 7 (which inserts a new Schedule into the Education Act 1996 (c. 56) to make provision about land in relation to Academies, and makes other supplementary provision about Academies) shall have effect.

## 66 Arrangements for admission of pupils to Academies

After section 85A of the School Standards and Framework Act 1998 (c. 31) there is inserted—

### “85B Functions of admission forums in relation to Academies

- (1) Regulations may authorise or require an admission forum established by a local education authority under section 85A to give advice to the governing body of any Academy in the authority’s area on any matter corresponding to a matter prescribed under subsection (1)(b) of that section.
- (2) The governing body of an Academy shall have regard, in conducting the Academy, to any relevant advice given to them by an admission forum by virtue of subsection (1).”

#### Commencement Information

- I1** S. 66 partly in force; s. 66 not in force at Royal Assent, see s. 216; s. 66 in force for E. at 20.1.2003 by S.I. 2002/2952, art. 2 (with savings and transitional provisions in Sch.)
- I2** S. 66 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, art. 2

*Status:* Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## 67 Conversion of city academies into Academies

Where a school is known immediately before the coming into force of section 65 as a city academy—

- (a) the agreement made in relation to that school under section 482 of the Education Act 1996 as it had effect at the time the agreement was made shall for all purposes be regarded as having been made under that section as substituted by section 65, and
- (b) accordingly, the school shall be known as an Academy.

## 68 City colleges

- (1) This section applies to a school which is known immediately before the coming into force of section 65 as a city technology college or city college for the technology of the arts.
- (2) If the proprietor of the school and the Secretary of State so agree—
  - (a) the agreement made in relation to the school under section 482 of the Education Act 1996 (c. 56) as it had effect at the time the agreement was made shall for all purposes be regarded as having been made under that section as substituted by section 65, and
  - (b) accordingly, the school shall be known as an Academy.
- (3) Subject to subsection (2), the agreement made in relation to the school under section 482 of the Education Act 1996 as it had effect at the time the agreement was made is not affected by anything in section 65.

## 69 Uniform statutory trusts

In section 557 of the Education Act 1996 (uniform statutory trusts), in the definition of “relevant school” in subsection (10), after “means a relevant school” there is inserted “, Academy, city technology college or city college for the technology of the arts, ”.

VALID FROM 01/04/2003

*Proposals to establish, alter or discontinue schools*

VALID FROM 01/06/2003

## 70 Proposals for additional secondary schools

- (1) A local education authority in England may publish a notice under this section inviting proposals for the establishment of any school falling within subsection (2) as an additional secondary school.
- (2) The following schools fall within this subsection—
  - (a) a community school;
  - (b) a foundation school;
  - (c) a voluntary school;
  - (d) an Academy.

*Status: Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) A notice under this section must—
  - (a) identify a possible site for the school,
  - (b) specify a date, being a date after the prescribed interval, by which proposals must be submitted,
  - (c) specify such other matters as may be prescribed, and
  - (d) be published in the prescribed manner.
- (4) Proposals made pursuant to a notice under this section must—
  - (a) contain the prescribed information, and
  - (b) be submitted to the local education authority before the date specified in the notice.
- (5) After the date specified in a notice published by a local education authority under this section the authority—
  - (a) shall publish under this section any proposals submitted pursuant to the notice in accordance with subsection (4), and
  - (b) may publish under this section proposals of their own for the establishment of a community or foundation school as an additional secondary school.
- (6) Regulations may prescribe—
  - (a) the manner in which proposals under this section must be published, and
  - (b) the information which proposals within subsection (5)(b) must contain.
- (7) For the purposes of this section, a school is “additional” if it does not replace a secondary school falling within subsection (2) which has been or is to be discontinued; and in determining for the purposes of this section whether one school replaces another regard shall be had to any guidance given from time to time by the Secretary of State.
- (8) For the purposes of this section “secondary school” does not include —
  - (a) a middle school, or
  - (b) a school which provides education suitable only to the requirements of persons above compulsory school age.
- (9) Schedule 8 (which makes provision in relation to the consideration, approval and implementation of proposals published under this section) shall have effect.

VALID FROM 01/06/2003

## **71 Duty of LEAs to secure proposals**

- (1) The Secretary of State may give a direction to a local education authority in England under this section where he is of the opinion that the provision for primary or secondary education—
  - (a) in the area of the authority, or
  - (b) in any part of that area,
 is, or is likely to become, insufficient.

*Status: Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Where a direction is given to a local education authority under this section, the authority shall, within the time specified in the direction, do either or both of the following as the authority think fit—
  - (a) exercise their powers under section 28, 29 or 31 of the School Standards and Framework Act 1998 (c. 31) to publish proposals for the establishment, alteration or discontinuance of schools;
  - (b) exercise their power under section 70(1) (notice inviting proposals for establishment of additional secondary schools).
- (3) A local education authority shall comply with a direction under this section—
  - (a) with a view to securing that provision is made for such additional number of pupils in the area, or in any such part of the area, as may be specified in the direction, and
  - (b) applying such principles as may be specified in the direction.
- (4) Where the Secretary of State has given a direction to a local education authority under this section and—
  - (a) the authority has not complied with the direction within the time specified in it, or
  - (b) the authority has complied with it, but the Secretary of State is not satisfied that the provision referred to in subsection (3)(a) will be secured,the Secretary of State may make any such proposals as might have been made by the authority under subsection (2)(a) or, by virtue of subsection (2)(b), under section 70(5)(b).
- (5) Proposals made by the Secretary of State under subsection (4) shall—
  - (a) contain the prescribed information,
  - (b) be published by the Secretary of State in the prescribed manner, and
  - (c) be sent by the Secretary of State to the school organisation committee for the area to which they relate.
- (6) Paragraph 4 of Schedule 7 to the School Standards and Framework Act 1998 applies in relation to this section as follows—
  - (a) sub-paragraphs (1) to (5) apply in relation to a direction given under this section, in relation to the whole or part of the area of a local education authority, as they apply in relation to an order made under paragraph 2(2) or 3(2) of that Schedule, in relation to the area of such an authority;
  - (b) sub-paragraphs (6) and (7) apply in relation to proposals made by a local education authority in the exercise, pursuant to such a direction, of their powers under section 28, 29 or 31 of that Act, as they apply in relation to the proposals referred to in those sub-paragraphs.
- (7) Paragraphs 7 to 10 and 16 of that Schedule apply in relation to proposals made by the Secretary of State under subsection (4) as they apply to proposals published under paragraph 5 of that Schedule, but as if—
  - (a) the reference in paragraph 9(2) to the order under paragraph 2(2) or 3(2) were a reference to the direction under this section, and
  - (b) the reference in paragraph 16(2) to paragraph 5(3) were a reference to subsection (5)(c) of this section.

*Status: Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 72 Proposals relating to sixth forms

(1) After section 113 of the Learning and Skills Act 2000 (c. 21) there is inserted—

### “113A Restructuring of sixth-form education

- (1) The Learning and Skills Council for England may make proposals under this section—
- (a) with a view to meeting recommendations made in the report of an area inspection under section 65,
  - (b) with a view to promoting one or more of the relevant objectives, or
  - (c) if—
    - (i) they are made in addition to proposals relating to education or training other than in schools, and
    - (ii) the combined proposals are made with a view to promoting one or more of the relevant objectives.
- (2) The National Council for Education and Training for Wales may make proposals under this section—
- (a) with a view to meeting recommendations made in the report of an area inspection under section 83,
  - (b) with a view to promoting one or more of the relevant objectives, or
  - (c) if—
    - (i) they are made in addition to proposals relating to education or training other than in schools, and
    - (ii) the combined proposals are made with a view to promoting one or more of the relevant objectives.
- (3) For the purposes of this section, the following are “relevant objectives”—
- (a) an improvement in the educational or training achievements of persons who are above compulsory school age but below the age of 19;
  - (b) an increase in the number of such persons who participate in education or training suitable to the requirements of such persons;
  - (c) an expansion of the range of educational or training opportunities suitable to the requirements of such persons.
- (4) Proposals under this section are proposals for one or more of the following—
- (a) the establishment by a local education authority of one or more new community, foundation, community special or foundation special schools to provide secondary education suitable to the requirements of persons who are above compulsory school age but below the age of 19 (and no other secondary education);
  - (b) an alteration to one or more maintained schools which relates to the provision of secondary education suitable to the requirements of such persons and is of a description prescribed by regulations;
  - (c) the discontinuance of one or more maintained schools which provide secondary education suitable to the requirements of such persons (and no other secondary education).
- (5) Proposals under this section are to be published and submitted to the relevant authority, which shall—

*Status: Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) approve them, with or without modification or subject to the occurrence of any event, or
  - (b) reject them.
- (6) Schedule 7A (implementation of proposals) has effect.
- (7) In exercising any function conferred by or under this section, the Learning and Skills Council for England and the National Council for Education and Training for Wales must have regard to any guidance given from time to time by the relevant authority.
- (8) Proposals under this section may be made either alone or in addition to proposals under section 51 of the Further and Higher Education Act 1992 (c. 13) (proposals for further education corporations).
- (9) Regulations may make provision about proposals under this section and may in particular make provision about—
  - (a) the information to be included in, or provided in relation to, the proposals;
  - (b) publication of the proposals;
  - (c) consultation on the proposals (before or after publication);
  - (d) the making of objections to or comments on the proposals;
  - (e) withdrawal or modification of the proposals;
  - (f) approval of the proposals by the relevant authority.
- (10) For the purposes of sections 496 and 497 of the Education Act 1996 (c. 56) (powers to prevent unreasonable exercise of functions and general default powers), the provisions of this section and Schedule 7A shall be treated as if they were provisions of that Act.
- (11) For the purposes of this section and Schedule 7A—
  - “alteration” means an alteration of whatever nature, including the transfer of the school to a new site but excluding any change—
    - (a) in the religious character of the school, or
    - (b) whereby the school would acquire or lose a religious character;
  - “maintained school” means a community, foundation or voluntary school or a community or foundation special school;
  - “regulations” means—
    - (a) in relation to proposals by the Learning and Skills Council for England, regulations made by the Secretary of State, and
    - (b) in relation to proposals by the National Council for Education and Training for Wales, regulations made by the National Assembly for Wales;
  - “relevant authority” means—
    - (a) in relation to the Learning and Skills Council for England, the Secretary of State; and
    - (b) in relation to the National Council for Education and Training for Wales, the National Assembly for Wales;
  - “secondary education” has the same meaning as in section 2 of the Education Act 1996.”
- (2) Schedule 9 (which inserts a new Schedule 7A into that Act) shall have effect.

*Status: Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/06/2003

### **73 Proposals by governing bodies of community schools**

In section 28 of the School Standards and Framework Act 1998 (c. 31) (proposals for establishment or alteration of schools), in subsection (2)(b) (requirement of publication where the governing body of a foundation or voluntary school propose to make a prescribed alteration to the school), after “foundation or voluntary school” there is inserted “, or of a community school maintained by a local education authority in England,”.

### **74 Proposals for establishment of federated school**

(1) Proposals under—

- (a) section 28 or 31 of the School Standards and Framework Act 1998 (c. 31),
- (b) paragraph 5 of Schedule 7 to that Act,
- (c) section 113A of the Learning and Skills Act 2000 (c. 21), or
- (d) section 70 or 193 of this Act,

for the establishment of a new school may relate to the establishment of the school as a federated school.

(2) Regulations may make provision modifying any provision contained in—

- (a) section 28 or 31 of, or Schedule 6 or 7 to, the School Standards and Framework Act 1998,
- (b) section 113A of, or Schedule 7A to, the Learning and Skills Act 2000, or
- (c) section 70 of, or Schedule 8 to, this Act,

in its application to proposals to establish a school as a federated school, or to the establishment of a school as a federated school.

(3) In this section “federated school” has the meaning given by section 24(2).

### **75 Changes to existing procedures**

Schedule 10 (which makes amendments to the School Standards and Framework Act 1998 and the Learning and Skills Act 2000 in respect of the procedures for the establishment, alteration and discontinuance of certain maintained schools) shall have effect.

#### **Commencement Information**

- I3** S. 75 partly in force; s. 75 not in force at Royal Assent, see s. 216; s. 75 in force for certain purposes for W. at 19.12.2002 by S.I. 2002/3185, art. 4, Sch. Pt. I



**Status:**

Point in time view as at 06/03/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Education Act 2002, Part 5 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.