



Education and Inspections Act 2006

2006 CHAPTER 40

PART 2

ESTABLISHMENT, DISCONTINUANCE OR ALTERATION OF SCHOOLS

Establishment of new schools

[^{F1}6A Requirement to seek proposals for establishment of new Academies

- (1) If a local authority in England think a new school needs to be established in their area, they must seek proposals for the establishment of an Academy.
- (2) The local authority must specify a date by which any proposals sought under subsection (1) must be submitted to them.
- (3) After the specified date, the local authority must notify the Secretary of State—
 - (a) of the steps they have taken to seek proposals for the establishment of an Academy, and
 - (b) of any proposals submitted to them as a result before the specified date, or of the fact that no such proposals have been submitted to them before that date.
- (4) A notification under subsection (3) must—
 - (a) identify a possible site for the Academy, and
 - (b) specify such matters as may be prescribed.]

Textual Amendments

- F1** S. 6A inserted (1.2.2012 for specified purposes) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 11 para. 2](#); [S.I. 2012/84](#), [art. 3](#) (with [art. 4](#))

Status: Point in time view as at 01/02/2012.

Changes to legislation: Education and Inspections Act 2006, Cross Heading: Establishment of new schools is up to date with all changes known to be in force on or before 30 June 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)

7 Invitation for proposals for establishment of new schools

- (1) A [^{F2}local authority] in England may [^{F3}with the consent of the Secretary of State] publish a notice under this section inviting proposals from persons other than [^{F2}local authorities] for the establishment of any new school falling within subsection (2).
- (2) The schools falling within this subsection are—
 - (a) a foundation, voluntary or foundation special school, other than one providing education suitable only to the requirements of persons above compulsory school age, or
 - (b) an Academy.
- (3) A notice under this section must—
 - (a) identify a possible site for the school,
 - (b) state whether or not the proposed school is to be a special school,
 - (c) specify a date, being a date after the prescribed interval, by which proposals must be submitted,
 - (d) specify such other matters as may be prescribed, and
 - (e) 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 [^{F2}local authority] before the date specified in the notice.
- (5) After the date specified in a notice published by a [^{F2}local authority] under this section, the authority—
 - (a) must publish under this section any proposals submitted pursuant to the notice in accordance with subsection (4),^{F4}...
 - ^{F4}(b)
- ^{F5}(5A)
- (6) Regulations may prescribe—
 - (a) the time within which proposals under this section must be published, [^{F6}and]
 - (b) the manner in which they must be published, ^{F7}...
 - ^{F7}(c)
- (7) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.

Textual Amendments	
F2	Words in Pts. 1-7 substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158) , art. 1, Sch. 2 para. 14(2)
F3	Words in s. 7(1) inserted (1.2.2012) by Education Act 2011 (c. 21) , s. 82(3), Sch. 11 para. 3(a) ; S.I. 2012/84, art. 3 (with art. 4)
F4	S. 7(5)(b) and word omitted (1.2.2012) by virtue of Education Act 2011 (c. 21) , s. 82(3), Sch. 11 para. 3(b) ; S.I. 2012/84, art. 3 (with art. 4)
F5	S. 7(5A) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21) , s. 82(3), Sch. 11 para. 3(c) ; S.I. 2012/84, art. 3 (with art. 4)
F6	Word in s. 7(6)(a) inserted (1.2.2012) by Education Act 2011 (c. 21) , s. 82(3), Sch. 11 para. 3(d) ; S.I. 2012/84, art. 3 (with art. 4)

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F7 S. 7(6)(c) and word omitted (1.2.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 11 para. 3\(d\)](#); [S.I. 2012/84](#), art. 3 (with art. 4)

Modifications etc. (not altering text)

C1 S. 7 modified (E.) (25.5.2007) by [The School Organisation \(Establishment and Discontinuance of Schools\) \(England\) Regulations 2007 \(S.I. 2007/1288\)](#), reg. 1(1), [Sch. 7 Pt. 1](#)

Commencement Information

I1 S. 7 in force at 25.5.2007 by [S.I. 2007/935](#), art. 7(b)

[^{F8}7A] Withdrawal of notices under section 7

- (1) This section applies where a local authority have published a notice under section 7.
- (2) At any time before the date specified in the notice—
 - (a) the local authority may withdraw it, with the consent of the Secretary of State, or
 - (b) the Secretary of State may direct the local authority to withdraw it.]

Textual Amendments

F8 S. 7A inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 11 para. 4](#); [S.I. 2012/84](#), art. 3 (with art. 4)

^{F9}8 Proposals under section 7 relating to community or community special schools

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Textual Amendments

F9 S. 8 repealed (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 11 para. 5](#); [S.I. 2012/84](#), art. 3 (with art. 4)

Commencement Information

I2 S. 8 in force at 25.5.2007 by [S.I. 2007/935](#), art. 7(b)

9 Consultation and publicity in relation to notice and proposals under section 7

- (1) Before publishing a notice under section 7, the [^{F2}local authority] must consult such persons as appear to the authority to be appropriate; and in discharging their duty under this subsection the authority must have regard to any guidance given from time to time by the Secretary of State.
- (2) Regulations may require the [^{F2}local authority] to take prescribed steps for the purpose of promoting public awareness of any proposals published by them under section 7.

Textual Amendments

F2 Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, [Sch. 2 para. 14\(2\)](#)

Status: Point in time view as at 01/02/2012.

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Commencement Information

I3 S. 9 in force at 25.5.2007 by [S.I. 2007/935](#), [art. 7\(b\)](#)

10 Publication of proposals with consent of Secretary of State

- (1) A [^{F2}local authority] in England may with the consent of the Secretary of State publish under this section their proposals to establish [^{F10}a new community, community special, foundation or foundation special school, which—
 - (a) is not to be one providing education suitable only to the requirements of persons above compulsory school age, and
 - (b) is to replace one or more maintained schools, except where section 11(A2) applies or in a case within section 11(A3).]
- (2) Any persons (“proposers”) may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 7) a new foundation, voluntary [^{F11} controlled] or foundation special school in England other than—
 - (a) one providing education suitable only to the requirements of persons above compulsory school age, or
 - (b) one in relation to which proposals fall to be published under section 11 by virtue of subsection [^{F12} (2)] of that section.
- (3) Proposals under this section must—
 - (a) contain such information, and
 - (b) be published in such manner,
 as may be prescribed.
- (4) Before publishing any proposals under this section, the [^{F2}local authority] or proposers (as the case may be) must consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority or proposers must have regard to any guidance given from time to time by the Secretary of State.
- (5) Where any proposals are published under subsection (2), the proposers must submit the proposals in accordance with regulations to the [^{F2}local authority] who it is proposed should maintain the school.
- (6) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.

Textual Amendments

- F2** Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, [Sch. 2 para. 14\(2\)](#)
- F10** Words in s. 10(1) substituted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 11 para. 6\(2\)](#); [S.I. 2012/84](#), art. 3 (with art. 4)
- F11** Word in s. 10(2) inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 11 para. 6\(3\)\(a\)](#); [S.I. 2012/84](#), art. 3 (with art. 4)
- F12** Word in s. 10(2)(b) substituted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 11 para. 6\(3\)\(b\)](#); [S.I. 2012/84](#), art. 3 (with art. 4)

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Modifications etc. (not altering text)

C2 S. 10 modified (E.) (25.5.2007) by [The School Organisation \(Establishment and Discontinuance of Schools\) \(England\) Regulations 2007 \(S.I. 2007/1288\)](#), reg. 1(1), **Sch. 7 Pt. 2**

Commencement Information

I4 S. 10 in force at 25.5.2007 by [S.I. 2007/935](#), **art. 7(b)**

11 Publication of proposals to establish maintained schools: special cases

[^{F13}(A1) Subsection (A2) applies where a local authority in England publish a notice under section 7 (notice inviting proposals for establishment of new schools), and—

- (a) no proposals are made pursuant to the notice, or
- (b) proposals are made pursuant to the notice but none of the proposals are approved under Schedule 2 or result in Academy arrangements being entered into.

(A2) The local authority may publish under this section proposals of their own to establish a new community, community special, foundation or foundation special school, which is not to be one providing education suitable only to the requirements of persons above compulsory school age.

(A3) Where a local authority in England propose to establish a new community, community special, foundation or foundation special school, which—

- (a) is to be a primary school, and
 - (b) is to replace a maintained infant school and a maintained junior school,
- the authority must publish their proposals under this section.]

(1) Where a [^{F2}local authority] in England propose to establish—

- (a) a new maintained nursery school, or

[^{F14}(b)

the authority must publish their proposals under this section.

[^{F15}(1A) Where any persons (“proposers”) propose to establish a new voluntary aided school in England, they may publish their proposals under this section.]

(2) Where any persons (“proposers”) propose to establish a new foundation, voluntary [^{F16}controlled] or foundation special school in England which—

[^{F17}(a)

[^{F18}(aa) is to replace one or more foundation or voluntary schools which have a religious character,]

- (b) is to replace an independent school that is not an Academy, a city technology college or a city college for the technology of the arts, or
- (c) in the case of a new foundation special school, is to replace a non-maintained special school,

they must publish their proposals under this section.

[^{F19}(2A) For the purposes of subsection (2)(aa), a new foundation or voluntary controlled school replaces a foundation or voluntary school which has a religious character if it is proposed that the new school—

- (a) should have the same religious character,
- (b) should have a different religious character, or

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- (c) should not have a religious character.]
- (3) A new foundation, voluntary [^{F20}controlled] or foundation special school is not to be regarded for the purposes of subsection (2)(b) as replacing an independent school unless—
- (a) the independent school has been registered under Chapter 1 of Part 10 of EA 2002 (regulation of independent schools) for a continuous period of at least two years ending with the date of the publication of the proposals under this section, and
 - (b) it is proposed that the independent school should continue in existence but should then close as an independent school immediately before the proposals are implemented.
- (4) A new foundation special school is not to be regarded for the purposes of subsection (2) (c) as replacing a non-maintained special school unless—
- (a) the non-maintained special school has been approved under section 342 of EA 1996 (approval of non-maintained special schools) for a continuous period of at least two years ending with the date of the publication of the proposals, and
 - (b) it is proposed that the non-maintained special school should continue in existence but should then close as a non-maintained special school immediately before the proposals are implemented.
- (5) Proposals under this section must—
- (a) contain such information, and
 - (b) be published in such manner,
- as may be prescribed.
- (6) Before publishing any proposals under this section, the authority or proposers (as the case may be) must consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority or proposers must have regard to any guidance given from time to time by the Secretary of State.
- (7) Where any proposals are published under subsection [^{F21}(1A) or] (2), the proposers must submit the proposals in accordance with regulations to the [^{F2}local authority] who it is proposed should maintain the school.
- (8) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.
- (9) [^{F22}In this section—
- “maintained infant school” means a maintained school that provides primary education suitable to the requirements of children of compulsory school age who have not attained the age of 8;
- “maintained junior school” means a maintained school that provides primary education suitable to the requirements of junior pupils who have attained the age of 7;
- “non-maintained special school” means a school which is approved under section 342 of EA 1996.]

Textual Amendments

- F2** Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, [Sch. 2 para. 14\(2\)](#)

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- F13** S. 11(A1)-(A3) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(2)**; S.I. 2012/84, art. 3 (with art. 4)
- F14** S. 11(1)(b) repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 126(5), 269(4), **Sch. 16 Pt. 3**; S.I. 2009/3317, art. 2, Sch.
- F15** S. 11(1A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(3)**; S.I. 2012/84, art. 3 (with art. 4)
- F16** Word in s. 11(2) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(4)(a)**; S.I. 2012/84, art. 3 (with art. 4)
- F17** S. 11(2)(a) repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 126(5), 269(4), **Sch. 16 Pt. 3**; S.I. 2009/3317, art. 2, Sch.
- F18** S. 11(2)(aa) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(4)(b)**; S.I. 2012/84, art. 3 (with art. 4)
- F19** S. 11(2A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(5)**; S.I. 2012/84, art. 3 (with art. 4)
- F20** Word in s. 11(3) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(6)**; S.I. 2012/84, art. 3 (with art. 4)
- F21** Words in s. 11(7) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(7)**; S.I. 2012/84, art. 3 (with art. 4)
- F22** S. 11(9) substituted (1.2.2012 for certain purposes) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(8)**; S.I. 2012/84, art. 3 (with art. 4)

Modifications etc. (not altering text)

- C3** S. 11 modified (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 7 Pt. 2**

Commencement Information

- I5** S. 11 in force at 25.5.2007 by S.I. 2007/935, art. 7(b)

12 Establishment of school as federated school

(1) Proposals under—

- (a) section 7, 10 or 11, or
^{F23}(b)

for the establishment of a new [^{F24}maintained] school in England may relate to the establishment of the school as a federated school.

(2) In this section “federated school” has the meaning given by section 24(2) of EA 2002.

Textual Amendments

- F23** S. 12(1)(b) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 57, **Sch. 2 Pt. 1** (with art. 2(3))
- F24** Word in s. 12(1) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 9**; S.I. 2012/84, art. 3 (with art. 4)

Commencement Information

- I6** S. 12 in force at 25.5.2007 by S.I. 2007/935, art. 7(b)

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13 Schools established outside area of relevant ^{F25}local authority]

Regulations may modify the provisions of sections 7 to 12 and Schedule 2 in their application to cases where—

- (a) in the case of proposals published under section 7, the school is proposed to be established in an area in England other than that of the ^{F2}local authority] who published the notice under that section, or
- (b) in the case of proposals published under section 10 or 11, the school is proposed to be established in an area in England other than that of the ^{F2}local authority] who it is proposed should maintain the school.

Textual Amendments

F2 Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 14(2)**

F25 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**

Modifications etc. (not altering text)

C4 S. 13 modified (E.) (11.3.2009) by [The Local Government \(Structural Changes\) \(Further Transitional and Supplementary Provision and Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/276\)](#), regs. 1(1), **3(4)** (with reg. 1(2))

Commencement Information

I7 S. 13 in force at 25.5.2007 by [S.I. 2007/935](#), **art. 7(b)**

14 ^{F25}Local authority] in England not to establish school in Wales

No proposals may be published under this Part or any other enactment for the establishment of a school in Wales which is proposed to be maintained by a ^{F2}local authority] in England.

Textual Amendments

F2 Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 14(2)**

F25 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**

Commencement Information

I8 S. 14 in force at 25.5.2007 by [S.I. 2007/935](#), **art. 7(b)**

Status:

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