



# Education and Inspections Act 2006

## 2006 CHAPTER 40

### PART 2 **E+W**

#### ESTABLISHMENT, DISCONTINUANCE OR ALTERATION OF SCHOOLS

##### *Establishment of new schools*

### 11 **Publication of proposals to establish maintained schools: special cases** **E+W**

[<sup>F1</sup>(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 [<sup>F2</sup>local authority] in England propose to establish—

- (a) a new maintained nursery school, or
- <sup>F3</sup>(b) .....

the authority must publish their proposals under this section.

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- [<sup>F4</sup>(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 [<sup>F5</sup>controlled] or foundation special school in England which—
- <sup>F6</sup>(a) . . . . .
- [<sup>F7</sup>(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.
- [<sup>F8</sup>(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
- (c) should not have a religious character.]
- (3) A new foundation, voluntary [<sup>F9</sup>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 [<sup>F10</sup>Chapter 1 of Part 4 of the Education and Skills Act 2008 (regulation of independent educational institutions in England)] 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.

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- (7) Where any proposals are published under subsection [F11(1A) or] (2), the proposers must submit the proposals in accordance with regulations to the [F2local 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) [F12In 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

- F1** 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)
- 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** 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.
- F4** 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)
- F5** 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)
- F6** 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.
- F7** 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)
- F8** 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)
- F9** 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)
- F10** Words in s. 11(3)(a) substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 38(2)**; S.I. 2014/3364, art. 2(z)
- F11** 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)
- F12** 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)
- F13** Word in s. 11(9) substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 38(3)**; S.I. 2014/3364, art. 2(z)

#### Modifications etc. (not altering text)

- C1** 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**
- C2** S. 11 modified (28.1.2014) by The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 (S.I. 2013/3109), reg. 1, **Sch. 4 Pt. 2**

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#### **Commencement Information**

**11** S. 11 in force at 25.5.2007 by [S.I. 2007/935](#), [art. 7\(b\)](#)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2006/2990 art. 4 by [S.I. 2008/54 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2007/935 art. 7(n) by [S.I. 2007/1271 art. 4](#)
- specified provision(s) transitional provisions for earlier commencing SI 2007/935 by [S.I. 2007/1271 art. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A inserted by [2010 c. 26 s. 7](#)
- s. 88(A1) inserted by [2015 c. 20 Sch. 16 para. 1\(2\)](#)
- s. 93A inserted by [2009 c. 22 s. 246](#)
- s. 93A(7) words inserted by [S.I. 2016/413 reg. 235](#) (This amendment comes into force on the day that section 93A of the Education and Inspections Act 2006 (c. 40) comes into force. That provision is still prospective)
- s. 162(5A)(aa) inserted by [2010 nawm 1 Sch. 1 para. 20\(a\)](#)