



Education Act 1996

1996 CHAPTER 56

PART II

SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

CHAPTER II

ESTABLISHMENT, ALTERATION ETC. OF COUNTY AND VOLUNTARY SCHOOLS

County schools: establishment, alteration or change of site

35 County school: proposals for establishment, alteration or new site

- (1) Where a local education authority intend—
 - (a) to establish a new county school,
 - (b) to maintain as a county school a school which is not for the time being a county school,
 - (c) to make any significant change in the character, or any significant enlargement of the premises, of a county school, or
 - (d) to transfer a county school to a new site in the area,then (subject to subsections (2) and (8)) they shall publish their proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (2) The requirement to publish proposals under subsection (1)(d) does not apply in relation to the transfer of a county school to a new site if—
 - (a) the school is intended to return to its existing site within three years of the time of the transfer; or
 - (b) the local education authority are satisfied that it is expedient that the school should be transferred to the new site either—

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- (i) because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they conform to the standards prescribed under section 542, or
 - (ii) in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning; or
 - (c) the transfer is authorised by an order made under section 16(1) of the Education Act 1944 (transfer of county schools etc. to new sites).
- (3) Proposals published under this section shall include particulars—
- (a) of the time or times at which it is intended to implement the proposals, and
 - (b) of the number of pupils intended to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented,
- and shall be accompanied by a statement of the effect of section 36.
- (4) For the purposes of subsection (3)(b) pupils intended to be admitted to the school for nursery education shall be disregarded, and pupils—
- (a) already admitted to the school for nursery education, and
 - (b) intended to be transferred to a reception class at the school,
- shall be treated as intended to be admitted to the school on their transfer.
- (5) Before publishing any proposals under this section a local education authority shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority shall have regard to any guidance given from time to time by the Secretary of State.
- (6) Before publishing any proposals under subsection (1)(c) which (if implemented) would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, the local education authority shall consult the appropriate further education funding council.
- (7) Before formulating any proposals under subsection (1)(c) or (d) in respect of a school which is (within the meaning of Part III) eligible for grant-maintained status, the local education authority shall consult the school's governing body.
- (8) No proposals shall be published under this section in respect of any school in respect of which proposals for acquisition of grant-maintained status have been approved under section 194.

36 Objections to proposals under section 35

- (1) Objections to any proposals published by a local education authority under section 35 may be submitted to the authority by any of the following—
- (a) any ten or more local government electors for the authority's area,
 - (b) the governing body of any school affected by the proposals,
 - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies), and
 - (d) any other local education authority concerned.
- (2) Objections may be so submitted within the period of two months after the first publication of the proposals.

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- (3) Where—
 - (a) an order under section 27 (allocation of responsibility for providing sufficient school places) applies to the area of a local education authority, and
 - (b) the authority publish proposals under section 35 which affect the provision of relevant education in that area,the funding authority shall be included among the persons who may submit objections under subsection (1) to the proposals.
- (4) Within one month after the end of the period mentioned in subsection (2), the local education authority by whom the proposals were published shall transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) within that period, together with the authority's observations on them.
- (5) For the purposes of this section proposals under section 35 shall be taken to have been first published—
 - (a) on the day on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
 - (b) where different such requirements are satisfied on different days, on the last of those days.
- (6) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (5) be taken to be satisfied on the first day in respect of which it is satisfied.

37 Approval or rejection by Secretary of State of proposals under section 35

- (1) Proposals published by a local education authority under section 35 require the approval of the Secretary of State if subsection (2), (3) or (4) applies.
- (2) This subsection applies if the proposals are for the maintenance as a county school of a school which is for the time being a voluntary school.
- (3) This subsection applies if either—
 - (a) the Secretary of State, within two months after the submission to him of the published proposals, gives notice to the local education authority that the proposals require his approval, or
 - (b) objections have been made under section 36 and any of them have not been withdrawn in writing within the period specified in subsection (2) of that section.
- (4) This subsection applies if either—
 - (a) the proposals are first published after proposals for acquisition of grant-maintained status for the school have been published under section 193 but before those proposals are determined or withdrawn, or
 - (b) after the proposals have first been published but before they are determined or withdrawn, proposals for acquisition of grant-maintained status for the school are published under section 193;and references in this subsection to proposals being first published shall be construed in accordance with section 36(5) and (6).
- (5) Where any proposals require the approval of the Secretary of State under this section, he may (subject to subsections (6) to (8))—

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- (a) reject them,
 - (b) approve them without modification, or
 - (c) after consultation with the local education authority, approve them with such modifications as he thinks desirable.
- (6) In a case where subsection (2) applies, the Secretary of State shall not approve the proposals unless he has, in accordance with Schedule 6, approved an agreement under that Schedule between the local education authority and the school's governing body for the transfer to the authority of all necessary interests in the school premises.
- (7) In a case where subsection (4) applies, the Secretary of State—
- (a) shall consider both sets of proposals together, but
 - (b) shall not determine the proposals published under section 35 until he has made his determination with respect to the proposals published under section 193.
- (8) If the Secretary of State approves the proposals published under section 193, he shall approve the proposals published under section 35 if—
- (a) they are proposals under subsection (1)(c) or (d) of that section, and
 - (b) the governing body incorporated under section 195 give their consent,
- but otherwise he shall reject the proposals published under section 35.
- (9) Any proposals under section 35(1)(c) or (d) which are approved under subsection (8) shall be treated for the purposes of Part III (grant-maintained schools) as if they had been—
- (a) published under section 259 (change of character etc. of grant-maintained school), and
 - (b) approved under section 261,
- and section 262 (approval of school premises) shall apply accordingly.

38 Determination by LEA whether to implement proposals under section 35

- (1) Where any proposals published by a local education authority under section 35 do not require the approval of the Secretary of State under section 37, the authority shall determine whether the proposals should be implemented.
- (2) The determination must be made not later than four months after the submission of the proposals to the Secretary of State under section 35.
- (3) A local education authority shall notify the Secretary of State of any determination made by them under this section.

39 Approval of school premises

- (1) Where a local education authority publish proposals under section 35, they shall submit to the Secretary of State for his approval such particulars with respect to the premises or proposed premises of the school as he may require.
- (2) The particulars shall be so submitted at such time, and in such form and manner, as the Secretary of State may direct.
- (3) Schedule 6 has effect in relation to agreements for the transfer of premises in pursuance of proposals for a voluntary school to become a county school, and the approval of such agreements by the Secretary of State.

40 Implementation of proposals under section 35, etc

- (1) Subject to subsection (3), a local education authority shall implement any proposals of theirs—
 - (a) which have been approved by the Secretary of State under section 37, or
 - (b) which they have determined under section 38 to implement.
- (2) Where any particulars have been submitted under section 39 in connection with the proposals, the proposals shall be implemented in accordance with the particulars as approved by the Secretary of State.
- (3) The Secretary of State may, at the request of a local education authority, modify any proposals which the authority are required to implement by virtue of this section.
- (4) Subject to subsection (5), neither a local education authority nor any other person shall do or undertake to do anything for which proposals are required to be published and submitted under section 35 until the requirements of that section and section 39 have been complied with and any approval necessary under section 37 or 39 has been given.
- (5) The Secretary of State may in any case allow such steps to be taken pending compliance with any such requirements and the giving of any such approval as he considers reasonable in the circumstances.