

EDUCATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 5 – School Organisation

Proposals to establish, alter or discontinue schools

Section 70 and Schedule 8: Proposals for additional secondary schools

196. This section provides that LEAs in England may invite other people to make proposals for the establishment of a new community, foundation or voluntary secondary school or Academy that is not replacing such a school (an Academy is defined in section 65). Only after it has invited such proposals may it make proposals itself. At present proposals by an LEA to establish a new community or foundation secondary school are published under section 28 of the SSFA and decided through the arrangements for local decision making set out in that Act. The point of the change is to encourage a wider range of promoters to bring forward proposals to meet the need for a new school.
197. The LEA must then:
- publish a notice inviting proposals for the establishment of an additional community, foundation or voluntary secondary school or Academy, and identifying a possible site for the school;
 - publish any proposals that have been submitted in response to the notice;
 - publish any proposals of its own that it wishes to make.
198. An LEA may not make proposals under section 28 of the SSFA when it could issue a notice under the new provision (see the amendment made by paragraph 94 of schedule 21).
199. *Schedule 8* gives further details of the procedures to be followed and provides for regulations to further specify the necessary actions. In particular it provides for regulations to make provisions concerning comments by interested parties on the proposals that have been published.
200. Regulations will provide that following consultation the local SOC will be required to comment on the various options and to pass these comments to the Secretary of State who will then decide the proposals (or, in the case of an Academy, decide whether to enter into negotiations with the promoters with a view to signing a funding agreement with the Academy).
201. Proposals, which have been approved by the Secretary of State, are in general required to be implemented by the LEA which published the notice. However, a proposal for a voluntary controlled or foundation school may specify that the provision of the site will be the responsibility of the persons who made the proposal, and where a voluntary aided school is to be established at a site other than that specified in the notice, provision of the site will be the responsibility of the promoters.

*These notes refer to the Education Act 2002 (c.32)
which received Royal Assent on 24 July 2002*

202. If the land on which an Academy is to be sited is that identified in the notice published by the LEA, and certain other requirements are met, the Secretary of State may make a scheme for the transfer of the land to the promoters.