

ACADEMIES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Academies: other provisions

Section 9: Impact: additional schools

30. This section requires the Secretary of State, when deciding whether to enter into Academy arrangements in relation to an additional school, to take into account the impact of the additional school on the existing maintained schools, Academies and further education institutions in the area where the new school is proposed to be situated.
31. An ‘additional school’ is a school which does not replace a maintained school and is not subject to an Academy order under section 4 (see *subsection (3)*). And if the Academy provides education for pupils of a wider range of ages than the previous maintained school, it is to be treated as not replacing a maintained school (see *subsection (4)*).

Section 10: Consultation: additional schools

32. This section provides that before entering into Academy arrangements in respect of an additional school (as defined in the previous section) the person entering into those arrangements must consult those they think appropriate on the question of whether the arrangements should be entered into.

Section 11: Annual reports

33. This section requires the Secretary of State to publish, for each academic year, a report detailing all Academy arrangements entered into during the year, and the performance of Academies during the year. The report must be laid before Parliament.
34. ‘Academic year’ means a period of 12 months beginning on 1 August, and the first report under this section must relate to the academic year beginning 1 August 2010.

Section 12: Charitable status of Academy proprietors etc

35. This section applies to the legal entities that enter into Academy arrangements with the Secretary of State. If these entities (‘Academy proprietors’) comply with the requirements of *subsection (2)* then they will be qualifying Academy proprietors for the purposes of the section and will be treated as charities (under *subsection (1)*).
36. *Subsection (4)* provides that they will be exempt charities and will thus not need to register with, or be regulated by, the Charity Commission. The Cabinet Office will appoint a principal regulator for such Academy proprietors.

Section 13: Academies: land

37. [Section 13](#) introduces Schedule 1, which makes provision about land in relation to Academies. References below to paragraphs are to paragraphs of that Schedule.

*These notes refer to the Academies Act 2010 (c.32)
which received Royal Assent on 27 July 2010*

38. **Paragraph 1** re-enacts and extends paragraph 1(1) of Schedule 35A to the EA 1996 to allow the Secretary of State to make a scheme in order to transfer to the Academy land used for the purposes of any maintained school that has closed or is about to close (and not just community schools, as provided in Schedule 35A).
39. **Paragraph 2** re-enacts paragraph 1(2) of Schedule 35A to the EA 1996, which provides that the Secretary of State may make a scheme in relation to land held by a local authority and specified in a notice published under section 7 of the Education and Inspections Act 2006 (invitation for proposals for establishment of new schools).
40. **Paragraph 3** makes provision about what is required to be included in a scheme under paragraph 1 or 2. The power in paragraph 1(3) of Schedule 35A to the EA 1996 is extended so that as well as being able to specify the transfer of the whole of a freehold or leasehold interest, the scheme can specify the grant of a lease.
41. **Paragraph 4** provides that where an Academy order is made in respect of a voluntary, foundation or foundation special school, the Secretary of State may make directions in respect of publicly funded land held by the governing body, foundation body or trustees of the school. The powers are similar to those contained in paragraph 5 of Schedule 22 to the School Standards and Framework Act 1998, which applies on the discontinuance of a foundation, voluntary or foundation special school which holds publicly funded land.
42. **Paragraph 5** provides for land held by the governing body of a maintained school that is closing, other than land held on trust, to transfer automatically to the local authority on dissolution of the governing body (unless the Secretary of State directs transfer to a person concerned with running an Academy). This is similar to the existing provision in paragraph 7 of Schedule 22 to the School Standards and Framework Act 1998.
43. **Paragraph 6** re-enacts and extends provisions in paragraph 8 of Schedule 35A to the EA 1996 relating to land of former Academies. The paragraph allows the Secretary of State to make a scheme to transfer land held by a school back to the local authority, should the school cease to be an Academy or cease to occupy the land as an Academy.
44. **Paragraph 7** makes further provision about the closure of Academies and in particular provides for a power for the Secretary of State to make a direction in respect of publicly funded land which was originally held by a person other than a local authority.
45. **Paragraphs 8 to 12** include various technical and consequential provisions, including a disapplication of certain existing legislation in relation to disposals for the purpose of an Academy. Paragraph 11 provides a power for the Secretary of State to make regulations to address technical and practical matters arising out of such land transfers.

Section 14: Academies: amendments

46. This section introduces Schedule 2 which makes a number of amendments to existing legislation, some of which are minor and technical, some of which are not. Paragraph 2 of Schedule 2 amends the definition of ‘special school’ in section 337 of the EA 1996 to permit the definition of special schools to include Academies. Paragraphs 3 and 9 of Schedule 2 make changes to existing powers of the Secretary of State to amend trust deeds relating to non-maintained special schools, or to trust deeds relating to foundation, voluntary, or foundation special schools, or property held for the purposes of such a school, to allow them to be modified to permit the conduct of an Academy if the current trust deed is not sufficient. In all cases, consultation with the governing body, trustees and (if relevant) diocesan authority is required. Paragraph 10 of Schedule 2 amends Part 4 of Schedule 1 to the Freedom of Information Act 2000 to add Academy proprietors to the list of public bodies covered by that Act.