



# Education Act 2011

## 2011 CHAPTER 21

### PART 6

#### ACADEMIES

##### *Academies: other provisions*

#### **60 Academies: new and expanded educational institutions**

(1) For section 9 of AA 2010 (impact: additional schools) substitute—

##### **“9 Impact: new and expanded educational institutions**

- (1) This section applies if the Secretary of State is deciding whether to enter into Academy arrangements in relation to—
  - (a) a new educational institution, or
  - (b) an existing educational institution that, if the arrangements are entered into, will provide education for pupils of a wider range of ages.
- (2) The Secretary of State must take into account what the impact of entering into the arrangements would be likely to be on maintained schools, Academies, institutions within the further education sector and alternative provision in the area in which the institution is proposed to be, or is, situated.
- (3) An educational institution is not new for the purposes of this section if—
  - (a) it replaces one or more maintained schools, Academies or sixth form colleges that have been or are to be discontinued, and
  - (b) it provides education for persons of the same range of ages as the institution it replaces (or, as the case may be, the institutions it replaces, taken together).
- (4) “Alternative provision” means educational provision for which a local authority has made arrangements under section 19 of EA 1996 (exceptional provision of education in pupil referral units or elsewhere).”

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*Status: This is the original version (as it was originally enacted).*

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(2) For section 10 of AA 2010 (consultation: additional schools) substitute—

**“10 Consultation: new and expanded educational institutions**

- (1) This section applies before a person enters into Academy arrangements with the Secretary of State in relation to—
  - (a) a new educational institution, other than a new educational institution that is the subject of proposals under section 7 of EIA 2006 (proposals to establish new school following invitation from local authority), or
  - (b) an existing educational institution that, if the arrangements are entered into, will provide education for pupils of a wider range of ages.
- (2) The person must carry out a consultation on the question of whether the arrangements should be entered into.
- (3) The consultation must seek the views of such persons as the person carrying it out thinks appropriate.
- (4) Section 9(3) (when educational institution not new) applies for the purposes of this section.”

**61 Charges at boarding Academies**

After section 10 of AA 2010 insert—

**“10A Charges at boarding Academies**

- (1) This section applies where—
  - (a) a registered pupil at an Academy is provided with board and lodging at the Academy, and
  - (b) the local authority for the pupil’s area is satisfied that either condition A or condition B is met.
- (2) Condition A is that education suitable to the pupil’s age, ability and aptitude, and to any special educational needs the pupil may have, cannot otherwise be provided for the pupil.
- (3) Condition B is that payment of the full amount of the charges in respect of the board and lodging would involve financial hardship to the pupil’s parent.
- (4) If the authority is satisfied that condition A is met, the authority must pay the full amount of the charges in respect of the board and lodging to the proprietor of the Academy.
- (5) If the authority is satisfied that condition B is met, the authority must pay to the proprietor of the Academy so much of the charges in respect of the board and lodging as, in the opinion of the authority, is needed to avoid financial hardship to the pupil’s parent.
- (6) The proprietor of the Academy must remit the charges that would otherwise be payable by the pupil’s parent, to the extent that it receives a payment from the local authority in respect of those charges under subsection (4) or (5).”

## **62 Staff at Academies with religious character**

- (1) Part 5A of SSFA 1998 (employment of teachers at independent schools having a religious character) is amended as set out in subsections (2) and (3).
- (2) In section 124A (employment of teachers at independent schools having a religious character), in subsection (1), at the end insert “, other than an Academy to which section 124AA applies”.
- (3) After section 124A, insert—

### **“124AA Staff at certain Academies with religious character**

- (1) This section applies if—
  - (a) an Academy order has been made in respect of a foundation or voluntary controlled school which is designated by order under section 69(3) as a school having a religious character,
  - (b) the school has been converted into an Academy (see section 4(3) of the Academies Act 2010), and
  - (c) the Secretary of State has not made an order in respect of the school under subsection (2).
- (2) The Secretary of State may by order provide that this section does not apply to a school specified in the order.
- (3) Where there are more than two teachers at the Academy, the teachers must include persons who—
  - (a) are selected for their fitness and competence to give religious education in accordance with the tenets of the religion or the religious denomination specified in relation to the Academy in the order under section 69(3) (as applied by section 6(8) of the Academies Act 2010), and
  - (b) are specifically appointed to do so.

A teacher employed or engaged at the Academy in pursuance of this subsection is a “reserved teacher”, and any other teacher at the Academy is a “non-reserved teacher”.
- (4) The number of reserved teachers in the Academy must not exceed one-fifth of the total number of teachers, including the principal (and for this purpose, where the total number of teachers is not a multiple of five, it is to be treated as if it were the next higher multiple of five).
- (5) In connection with the appointment of a person to be the principal of the Academy, in a case where the principal is not to be a reserved teacher, regard may be had to that person’s ability and fitness to preserve and develop the religious character of the Academy.
- (6) Preference may be given, in connection with the appointment, promotion or remuneration of reserved teachers at the Academy, to persons—
  - (a) whose religious opinions are in accordance with the tenets of the religion or the religious denomination specified in relation to the Academy in the order under section 69(3) (as applied by section 6(8) of the Academies Act 2010), or
  - (b) who attend religious worship in accordance with those tenets, or

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- (c) who give, or are willing to give, religious education at the Academy in accordance with those tenets.
- (7) Regard may be had, in connection with the termination of employment or engagement of any reserved teacher at the Academy, to any conduct on the part of the teacher which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination specified in the order under section 69(3) (as applied by section 6(8) of the Academies Act 2010).
- (8) No person, other than a reserved teacher, is to be disqualified by reason of their religious opinions, or of their attending or omitting to attend religious worship—
  - (a) from being a teacher at the Academy, or
  - (b) from being employed or engaged for the purposes of the Academy otherwise than as a teacher.
- (9) A non-reserved teacher must not be required to give religious education.
- (10) A non-reserved teacher must not receive any less remuneration than any other non-reserved teacher, or be deprived of, or disqualified for, any promotion or other advantage available to other non-reserved teachers—
  - (a) for the reason that the teacher gives, or does not give, religious education, or
  - (b) for reasons related to the teacher’s religious opinions or to the teacher’s attending or omitting to attend religious worship.”
- (4) In consequence of the amendments made by subsections (2) and (3)—
  - (a) in the title to Part 5A of SSFA 1998, for “Employment of Teachers” substitute “Teachers and Staff”;
  - (b) in section 138 of SSFA 1998 (orders and regulations), in subsection (2)(a), after “111(3)(a)” insert “, 124AA(2)”;
  - (c) in paragraph 4 of Schedule 22 to the Equality Act 2010 (educational appointments etc based on religious belief), at the end insert—
    - “(d) section 124AA(5) to (7) of that Act (religious considerations relating to certain teachers at Academies with religious character).”

### **63 Academies: land**

Schedule 14 (Academies: land) has effect.

### **64 Academy admissions arrangements: references to adjudicator**

- (1) Chapter 1 of Part 3 of SSFA 1998 (school admissions: admission arrangements) is amended as follows.
- (2) In section 88 (admission authorities and admission arrangements)—
  - (a) in subsection (1), omit the “and” at the end of paragraph (a);
  - (b) in that subsection, at the end, insert “; and
  - (c) in relation to an Academy, means the proprietor of the Academy.”;
  - (c) in subsection (2), omit “maintained”.

- (3) In section 88H (reference of objections to adjudicator), after subsection (1) insert—
- “(1A) This section also applies where admission arrangements for an Academy have been determined by the proprietor of an Academy under Academy arrangements.”
- (4) In section 88I (other functions of adjudicator relating to admission arrangements), in subsection (1)—
- (a) after “determined” insert “—  
(a)”;
- (b) at the end insert “, or  
(b) by an admission authority for an Academy.”
- (5) In section 88K (sections 88H and 88I: supplementary)—
- (a) in subsection (4)(a), after “England” insert “or an Academy”;
- (b) in subsection (5), for the words from “means” to the end substitute “means—
- (a) in relation to a maintained school, the requirements imposed by or under this Part as to the content of admission arrangements for maintained schools in England, and
- (b) in relation to an Academy, the requirements imposed by or under Academy arrangements as to the content of its admission arrangements.”

## **65 Academies: minor amendments**

Schedule 15 (Academies: minor amendments) has effect.