



Education and Inspections Act 2006

2006 CHAPTER 40

PART 2

ESTABLISHMENT, DISCONTINUANCE OR ALTERATION OF SCHOOLS

Establishment of new schools

7 Invitation for proposals for establishment of new schools

- (1) A local education authority in England may publish a notice under this section inviting proposals from persons other than local education authorities for the establishment of any new school falling within subsection (2).
- (2) The schools falling within this subsection are—
 - (a) a foundation, voluntary or foundation special school, other than one providing education suitable only to the requirements of persons above compulsory school age, or
 - (b) an Academy.
- (3) A notice under this section must—
 - (a) identify a possible site for the school,
 - (b) state whether or not the proposed school is to be a special school,
 - (c) specify a date, being a date after the prescribed interval, by which proposals must be submitted,
 - (d) specify such other matters as may be prescribed, and
 - (e) be published in the prescribed manner.
- (4) Proposals made pursuant to a notice under this section must—
 - (a) contain the prescribed information, and
 - (b) be submitted to the local education authority before the date specified in the notice.

Status: This is the original version (as it was originally enacted).

- (5) After the date specified in a notice published by a local education authority under this section, the authority—
- (a) must publish under this section any proposals submitted pursuant to the notice in accordance with subsection (4), and
 - (b) may publish under this section—
 - (i) proposals of their own for the establishment of a foundation school or a foundation special school, or
 - (ii) if section 8 permits them to do so, proposals of their own for the establishment of a community or community special school.
- (6) Regulations may prescribe—
- (a) the time within which proposals under this section must be published,
 - (b) the manner in which they must be published, and
 - (c) the information which proposals within subsection (5)(b) must contain.
- (7) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.

8 Proposals under section 7 relating to community or community special schools

- (1) A local education authority may by virtue of subsection (5)(b)(ii) of section 7 publish proposals under that section for the establishment of a community or community special school—
- (a) only if at a prescribed time prescribed conditions are met in relation to the authority, and
 - (b) except where further prescribed conditions are also met in relation to the authority at that time, only with the consent of the Secretary of State.
- (2) The conditions prescribed for the purposes of subsection (1)(a) or (b) must include conditions relating to the standards achieved by the authority in performing the functions to which Chapter 4 of Part 8 (inspection and review of local authorities in England) applies.
- (3) The other conditions that may be prescribed for those purposes are conditions relating to either or both of the following—
- (a) the standards of performance achieved by any relevant school, and
 - (b) the extent of diversity among relevant schools.
- (4) The matters to which the Secretary of State is to have regard in determining whether to give consent under subsection (1)(b) include prescribed matters.
- (5) The power by virtue of subsection (2) or (3)(a) to prescribe standards includes power to prescribe them by reference to the opinion of the Chief Inspector or by reference to any rating awarded by the Chief Inspector following an inspection or review under any enactment.
- (6) In this section—
- “Chief Inspector” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;
 - “maintained school” does not include a maintained nursery school;
 - “relevant school”, in relation to a local education authority, means a maintained school maintained by the authority or an Academy, city

technology college or city college for the technology of the arts in the area of the authority.

9 Consultation and publicity in relation to notice and proposals under section 7

- (1) Before publishing a notice under section 7, the local education authority must consult such persons as appear to the authority to be appropriate; and in discharging their duty under this subsection the authority must have regard to any guidance given from time to time by the Secretary of State.
- (2) Regulations may require the local education authority to take prescribed steps for the purpose of promoting public awareness of any proposals published by them under section 7.

10 Publication of proposals with consent of Secretary of State

- (1) A local education authority in England may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 7)—
 - (a) a new community or community special school, or
 - (b) a new foundation or foundation special school, other than one providing education suitable only to the requirements of persons above compulsory school age.
- (2) Any persons (“proposers”) may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 7) a new foundation, voluntary or foundation special school in England other than—
 - (a) one providing education suitable only to the requirements of persons above compulsory school age, or
 - (b) one in relation to which proposals fall to be published under section 11 by virtue of subsection (2)(b) or (c) of that section.
- (3) Proposals under this section must—
 - (a) contain such information, and
 - (b) be published in such manner,as may be prescribed.
- (4) Before publishing any proposals under this section, the local education 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.
- (5) Where any proposals are published under subsection (2), the proposers must submit the proposals in accordance with regulations to the local education authority who it is proposed should maintain the school.
- (6) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.

11 Publication of proposals to establish maintained schools: special cases

- (1) Where a local education authority in England propose to establish—
 - (a) a new maintained nursery school, or
 - (b) a new foundation or foundation special school providing education suitable only to the requirements of persons above compulsory school age,the authority must publish their proposals under this section.
- (2) Where any persons (“proposers”) propose to establish a new foundation, voluntary or foundation special school in England which—
 - (a) is to provide education suitable only to the requirements of persons above compulsory school age,
 - (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.
- (3) A new foundation, voluntary 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 Chapter 1 of Part 10 of EA 2002 (regulation of independent schools) 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.
- (7) Where any proposals are published under subsection (2), the proposers must submit the proposals in accordance with regulations to the local education 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) In this section “non-maintained special school” means a school which is approved by the Secretary of State under section 342 of EA 1996.

12 Establishment of school as federated school

- (1) Proposals under—
- (a) section 7, 10 or 11, or
 - (b) section 113A of the Learning and Skills Act 2000 (c. 21),
- for the establishment of a new school in England may relate to the establishment of the school as a federated school.
- (2) In this section “federated school” has the meaning given by section 24(2) of EA 2002.

13 Schools established outside area of relevant LEA

Regulations may modify the provisions of sections 7 to 12 and Schedule 2 in their application to cases where—

- (a) in the case of proposals published under section 7, the school is proposed to be established in an area in England other than that of the local education authority who published the notice under that section, or
- (b) in the case of proposals published under section 10 or 11, the school is proposed to be established in an area in England other than that of the local education authority who it is proposed should maintain the school.

14 LEA in England not to establish school in Wales

No proposals may be published under this Part or any other enactment for the establishment of a school in Wales which is proposed to be maintained by a local education authority in England.