

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Academies

Academies: other provisions

Section 60: Academies: new and expanded educational institutions

289. *Subsection (1)* substitutes a new section 9 into AA 2010. Under the current section 9 the Secretary of State, when considering whether to enter into Academy arrangements in relation to an additional school, must take into account the impact on maintained schools, Academies and institutions within the further education sector in the area in which the additional school is, or is proposed, to be. An additional school is a school which does not replace a maintained school and is not subject to an Academy order under subsection 4 of AA 2010.
290. The new section 9 is similar, but removes the term “additional school”. The new section will apply when the Secretary of State is deciding whether to enter into Academy arrangements in relation to a new educational institution or an existing educational institution that, if arrangements are entered into, will provide education for pupils of a wider range of ages. An educational institution that replaces a discontinued maintained school, Academy or sixth form and caters for the same age range as the institution or institutions it replaces is not a new school for the purposes of this section.
291. The Secretary of State must consider the impact on alternative provision such as pupil referral units of entering into Academy arrangements in addition to considering the impact on the educational institutions previously listed in section 9.
292. *Subsection (2)* substitutes a new section 10 into AA 2010. The existing section 10 provides that before entering Academy arrangements with the Secretary of State in relation to an additional school the person entering into those arrangements must consult those they think appropriate as to whether the arrangements should be entered into. As with new section 9 above, new section 10 no longer uses the term “additional school”. The duty to consult will apply to the person entering into arrangements in relation to a new educational institution or an existing educational institution that caters for a wider age range than the institution it replaces.
293. The duty to consult does not apply to persons entering into Academy arrangements for a new educational institution following an invitation from a local authority under section 7 of EIA 2006. A local authority has a duty to consult those they think appropriate under section 9 of that Act before issuing a notice inviting proposals for a new school under section 7.