SCHEDULES

SCHEDULE 11

ESTABLISHMENT OF NEW SCHOOLS

Amendments to Part 2 of EIA 2006

1 Part 2 of EIA 2006 (establishment, discontinuance and alteration of schools) is amended as follows.

Commencement Information

I1 Sch. 11 para. 1 in force at 1.2.2012 for specified purposes by S.I. 2012/84, **art. 3** (with art. 4)

I2 Sch. 11 para. 1 in force at 1.9.2012 for specified purposes by S.I. 2012/2213, **art. 2**

2 Before section 7 insert—

Requirement to seek proposals for establishment of new Academies

"6A (1) If a local authority in England think a new school needs to be established in their area, they must seek proposals for the establishment of an Academy.

(2) The local authority must specify a date by which any proposals sought under subsection (1) must be submitted to them.

(3) After the specified date, the local authority must notify the Secretary of State—

(a) of the steps they have taken to seek proposals for the establishment of an Academy, and

(b) of any proposals submitted to them as a result before the specified date, or of the fact that no such proposals have been submitted to them before that date.

(4) A notification under subsection (3) must—

(a) identify a possible site for the Academy, and

(b) specify such matters as may be prescribed."

Commencement Information

I3 Sch. 11 para. 2 in force at 1.2.2012 for specified purposes by S.I. 2012/84, **art. 3** (with art. 4)

I4 Sch. 11 para. 2 in force at 1.9.2012 for specified purposes by S.I. 2012/2213, **art. 2**

3 In section 7 (invitation for proposals for establishment of new schools)—

(a) in subsection (1), after "may" insert " with the consent of the Secretary of State ";

(b) in subsection (5), omit paragraph (b) and the "and" immediately before it;

(c) omit subsection (5A);

(d) in subsection (6), insert " and " at the end of paragraph (a) and omit paragraph (c) and the "and" immediately before it.

Commencement Information

I5 Sch. 11 para. 3 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

4 After section 7 insert—

"**7A Withdrawal of notices under section 7**

(1) This section applies where a local authority have published a notice under section 7.

(2) At any time before the date specified in the notice—

(a) the local authority may withdraw it, with the consent of the Secretary of State, or

(b) the Secretary of State may direct the local authority to withdraw it."

Commencement Information

I6 Sch. 11 para. 4 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

5 Section 8 (proposals under section 7 relating to community or community special schools) is repealed.

Commencement Information

I7 Sch. 11 para. 5 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

6 (1) Section 10 (publication of proposals with consent of Secretary of State) is amended as follows.

(2) In subsection (1), for the words from "(otherwise" to the end substitute "a new community, community special, foundation or foundation special school, which—

(a) is not to be one providing education suitable only to the requirements of persons above compulsory school age, and

(b) is to replace one or more maintained schools, except where section 11(A2) applies or in a case within section 11(A3)."

(3) In subsection (2)—

(a) after "voluntary" insert " controlled ";

(b) in paragraph (b), for "(2)(b) or (c)" substitute " (2) ".

Commencement Information

I8 Sch. 11 para. 6 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

7 (1) Section 11 (publication of proposals to establish maintained schools: special cases) is amended as follows.

(2) Before subsection (1) insert—

"(A1) Subsection (A2) applies where a local authority in England publish a notice under section 7 (notice inviting proposals for establishment of new schools), and—

(a) no proposals are made pursuant to the notice, or

(b) proposals are made pursuant to the notice but none of the proposals are approved under Schedule 2 or result in Academy arrangements being entered into.

(A2) The local authority may publish under this section proposals of their own to establish a new community, community special, foundation or foundation special school, which is not to be one providing education suitable only to the requirements of persons above compulsory school age.

(A3) Where a local authority in England propose to establish a new community, community special, foundation or foundation special school, which—

(a) is to be a primary school, and

(b) is to replace a maintained infant school and a maintained junior school,

the authority must publish their proposals under this section."

(3) After subsection (1) insert—

"(1A) Where any persons ("proposers") propose to establish a new voluntary aided school in England, they may publish their proposals under this section."

(4) In subsection (2)—

(a) after "voluntary" insert " controlled ";

(b) before paragraph (b) insert—

"(aa) is to replace one or more foundation or voluntary schools which have a religious character,".

(5) After subsection (2) insert—

"(2A) For the purposes of subsection (2)(aa), a new foundation or voluntary controlled school replaces a foundation or voluntary school which has a religious character if it is proposed that the new school—

(a) should have the same religious character,

(b) should have a different religious character, or

(c) should not have a religious character."

(6) In subsection (3), after "voluntary" insert " controlled ".

(7) In subsection (7), after "subsection" insert " (1A) or ".

(8) For subsection (9) substitute—

"(9) In this section—

"maintained infant school" means a maintained school that provides primary education suitable to the requirements of children of compulsory school age who have not attained the age of 8;

"maintained junior school" means a maintained school that provides primary education suitable to the requirements of junior pupils who have attained the age of 7;

"non-maintained special school" means a school which is approved under section 342 of EA 1996."

Commencement Information

I9 Sch. 11 para. 7 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

8 In section 11A(1) (restriction on power of governing body to make proposals), for "11(2)" substitute " 11(1A) or (2) ".

Commencement Information

I10 Sch. 11 para. 8 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

9 In section 12 (establishment of school as a federated school), in subsection (1), after "new" insert " maintained ".

Commencement Information

I11 Sch. 11 para. 9 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

10 (1) Schedule 2 (consideration, approval and implementation of proposals for establishment or discontinuance of schools in England) is amended as follows.

(2) After paragraph 3 insert—

" "Academy proposals" and "non-Academy proposals"

3A In this Schedule—

(a) "Academy proposals" means proposals under section 7 for the establishment of an Academy, and

(b) "non-Academy proposals" means proposals under section 7 for the establishment of a school falling within subsection (2)(a) of that section."

(3) In paragraph 4(a) (references to persons by whom proposals under section 7 are made), omit "or in the case of proposals published by the relevant authority under subsection (5)(b) of that section, by the relevant authority,".

(4) In paragraph 5(b) (requirement to forward objections and comments made in relation to proposals)—

(a) for "referred to" substitute " to be considered by the Secretary of State or ";

(b) after "forward to" insert " the Secretary of State or (as the case may be) ".

(5) In the heading to Part 2, omit "by Local Authority or Adjudicator".

(6) For the heading before paragraph 6 substitute " *Consideration of proposals* ".

(7) Before paragraph 6 insert—

"5A (1) Academy proposals do not require consideration under paragraph 8 (see paragraph 7A instead).

(2) If proposals under section 7 consist wholly of non-Academy proposals, the proposals require consideration under paragraph 8.

(3) If proposals under section 7 include both Academy proposals and non-Academy proposals, the non-Academy proposals do not require consideration under paragraph 8 unless and until paragraph 7A(5) or (6) applies."

(8) In paragraph 6 (proposals under section 7, 10 or 11 requiring consideration under paragraph 8), omit "7,".

(9) After paragraph 7 insert—

"7A (1) This paragraph applies where proposals under section 7 consist of or include Academy proposals.

(2) The Secretary of State must decide whether to enter into Academy arrangements as a result of any of the Academy proposals.

(3) The Secretary of State must notify the relevant authority of a decision under sub-paragraph (2).

(4) Sub-paragraphs (5) and (6) apply where the proposals under section 7 include non-Academy proposals.

(5) If the Secretary of State decides not to enter into Academy arrangements as a result of any of the Academy proposals, the non-Academy proposals require consideration under paragraph 8.

(6) In any other case, the Secretary of State may direct that all or any of the non-Academy proposals require consideration under paragraph 8."

(10) Omit the heading before paragraph 8.

(11) In paragraph 9 (consideration of proposals that are related to other proposals), for sub-paragraph (2) substitute—

"(2) Where proposals within sub-paragraph (2A) appear to the relevant authority to be related to other proposals within that sub-paragraph that have not yet been determined, the authority must consider the proposals together.

(2A) The proposals within this sub-paragraph are—

(a) proposals under section 7 that require consideration by the authority under paragraph 8;

(b) proposals under section 10, 11 or 15."

(12) In paragraph 10(1) (duty to refer to adjudicator certain proposals made by or involving relevant authority), for paragraph (a) substitute—

"(a) all the proposals published under section 7 in response to a notice under that section and which—

(i) would otherwise require consideration by the authority under paragraph 8, and

(ii) consist of or include proposals which relate to the establishment of a foundation school with a foundation falling within sub-paragraph (2);".

(13) In paragraph 12 (duty to refer proposals to adjudicator in pursuance of direction of Secretary of State)—

(a) in sub-paragraph (1)(a)—

(i) after "section 7" insert " and which require consideration under paragraph 8 ";

(ii) after "determined by the authority" insert " under that paragraph ";

(b) in sub-paragraph (1)(b), after "that section" insert " and which require consideration under paragraph 8, ";

(c) omit sub-paragraphs (2) and (3).

(14) In paragraph 13 (duty to refer proposals to adjudicator where determination delayed), in paragraph (a), after "section 7" insert " and which require consideration under paragraph 8 ".

(15) Omit paragraph 18 and the heading before it (consultation in respect of proposals to establish Academy).

(16) In paragraph 19(4) (determination whether or not to implement proposals under section 15 not requiring consideration under paragraph 8)—

(a) after paragraph (a) insert—

"(aa) proposals published under section 7 that require consideration under paragraph 8 and are not yet determined,";

(b) in paragraph (b), omit "7,".

(17) Omit paragraph 27 (proposals relating to Academy: implementation).

Commencement Information

I12 Sch. 11 para. 10 in force at 1.2.2012 by S.I. 2012/84, **art. 3** (with art. 4)

Changes to legislation:
There are currently no known outstanding effects for the Education Act 2011, Cross Heading: Amendments to Part 2 of EIA 2006.