



Education and Inspections Act 2006

2006 CHAPTER 40

PART 2

ESTABLISHMENT, DISCONTINUANCE OR ALTERATION OF SCHOOLS

Establishment of new schools

11 Publication of proposals to establish maintained schools: special cases

[^{F1}(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.]

(1) Where a [^{F2}local authority] in England propose to establish—

- (a) a new maintained nursery school, or

^{F3}(b)

the authority must publish their proposals under this section.

Changes to legislation: Education and Inspections Act 2006, Section 11 is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F4}(1A) Where any persons (“proposers”) propose to establish a new voluntary aided school in England, they may publish their proposals under this section.]
- (2) Where any persons (“proposers”) propose to establish a new foundation, voluntary [^{F5}controlled] or foundation special school in England which—
- ^{F6}(a)
- [^{F7}(aa) is to replace one or more foundation or voluntary schools which have a religious character,]
- (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.
- [^{F8}(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.]
- (3) A new foundation, voluntary [^{F9}controlled] 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 [^{F10}Chapter 1 of Part 4 of the Education and Skills Act 2008 (regulation of independent educational institutions in England)] 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.

Changes to legislation: Education and Inspections Act 2006, Section 11 is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (7) Where any proposals are published under subsection [F11(1A) or] (2), the proposers must submit the proposals in accordance with regulations to the [F2local 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) [F12In 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.]

Textual Amendments

- F1** S. 11(A1)-(A3) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(2)**; S.I. 2012/84, art. 3 (with art. 4)
- F2** Words in Pts. 1-7 substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 14(2)**
- F3** S. 11(1)(b) repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 126(5), 269(4), **Sch. 16 Pt. 3**; S.I. 2009/3317, art. 2, Sch.
- F4** S. 11(1A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(3)**; S.I. 2012/84, art. 3 (with art. 4)
- F5** Word in s. 11(2) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(4)(a)**; S.I. 2012/84, art. 3 (with art. 4)
- F6** S. 11(2)(a) repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 126(5), 269(4), **Sch. 16 Pt. 3**; S.I. 2009/3317, art. 2, Sch.
- F7** S. 11(2)(aa) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(4)(b)**; S.I. 2012/84, art. 3 (with art. 4)
- F8** S. 11(2A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(5)**; S.I. 2012/84, art. 3 (with art. 4)
- F9** Word in s. 11(3) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(6)**; S.I. 2012/84, art. 3 (with art. 4)
- F10** Words in s. 11(3)(a) substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 38(2)**; S.I. 2014/3364, art. 2(z)
- F11** Words in s. 11(7) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(7)**; S.I. 2012/84, art. 3 (with art. 4)
- F12** S. 11(9) substituted (1.2.2012 for certain purposes) by Education Act 2011 (c. 21), s. 82(3), **Sch. 11 para. 7(8)**; S.I. 2012/84, art. 3 (with art. 4)
- F13** Word in s. 11(9) substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 38(3)**; S.I. 2014/3364, art. 2(z)

Modifications etc. (not altering text)

- C1** S. 11 modified (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 7 Pt. 2**
- C2** S. 11 modified (28.1.2014) by The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 (S.I. 2013/3109), reg. 1, **Sch. 4 Pt. 2**

Changes to legislation: Education and Inspections Act 2006, Section 11 is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Commencement Information

11 S. 11 in force at 25.5.2007 by [S.I. 2007/935](#), [art. 7\(b\)](#)

Changes to legislation:

Education and Inspections Act 2006, Section 11 is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
[View outstanding changes](#)

Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2006/2990 art. 4 by [S.I. 2008/54 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2007/935 art. 7(n) by [S.I. 2007/1271 art. 4](#)
- specified provision(s) transitional provisions for earlier commencing SI 2007/935 by [S.I. 2007/1271 art. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A inserted by [2010 c. 26 s. 7](#)
- s. 88(A1) inserted by [2015 c. 20 Sch. 16 para. 1\(2\)](#)
- s. 93A inserted by [2009 c. 22 s. 246](#)
- s. 93A(7) words inserted by [S.I. 2016/413 reg. 235](#) (This amendment comes into force on the day that section 93A of the Education and Inspections Act 2006 (c. 40) comes into force. That provision is still prospective)
- s. 162(5A)(aa) inserted by [2010 nawm 1 Sch. 1 para. 20\(a\)](#)