Education Act 2011

2011 CHAPTER 21

PART 6 E+W

ACADEMIES

Academy arrangements

52 Academies: removal of requirement to have specialism E+W

In section 1(6) of AA 2010 (Academy arrangements: characteristics of Academy) omit paragraph (b) (curriculum to have emphasis on particular subject area).

Commencement Information

I1 S. 52 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

53 Academy arrangements: post-16 education and alternative provision E+W

(1) Section 1 of AA 2010 (Academy arrangements) is amended as set out in subsections (2) to (6).

(2) For subsection (5) substitute—

"(5) The undertakings are—

(a) to establish and maintain an educational institution in England which meets the requirements of any of the following—

(i) section 1A (Academy schools);

(ii) section 1B (16 to 19 Academies);

(iii) section 1C (alternative provision Academies);

(b) to carry on, or provide for the carrying on, of the institution."

(3) Omit subsection (6).

(4) In subsection (7), for "a school within subsection (5)(a)(i)" substitute " an educational institution within section 1A(1) ".

(5) In subsection (9), for "school" (in both places) substitute " institution ".

(6) In subsection (10), for "A school" substitute " An educational institution ".

(7) After section 1 of AA 2010 insert—

"**1A Academy schools**

(1) An educational institution meets the requirements of this section if—
- (a) it is an independent school,
- (b) it has a curriculum satisfying the requirements of section 78 of EA 2002 (balanced and broadly based curriculum),
- (c) it provides education for pupils of different abilities,
- (d) it provides education for pupils who are wholly or mainly drawn from the area in which it is situated, and
- (e) it is not an alternative provision Academy (see section 1C).

(2) An educational institution also meets the requirements of this section if—
- (a) it is an independent school, and
- (b) it is specially organised to make special educational provision for pupils with special educational needs.

(3) An Academy which meets the requirements of this section is to be known as an Academy school.

1B 16 to 19 Academies

(1) An educational institution meets the requirements of this section if it is principally concerned with providing full-time or part-time education suitable to the requirements of persons over compulsory school age but under 19.

(2) "Education" includes vocational, social, physical and recreational training.

(3) An Academy which meets the requirements of this section is to be known as a 16 to 19 Academy.

1C Alternative provision Academies

(1) An educational institution meets the requirements of this section if—
- (a) it is principally concerned with providing full-time or part-time education for children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not otherwise receive suitable education for any period,
- (b) it provides education for children of different abilities, and
- (c) it provides education for children who are wholly or mainly drawn from the area in which it is situated.

(2) "Suitable education", in relation to a child, means efficient education suitable to the child's age, ability and aptitude and to any special educational needs the child may have.

(3) An Academy which meets the requirements of this section is to be known as an alternative provision Academy.

1D Alternative provision Academies: powers to apply provisions with modifications

(1) Regulations may provide for a statutory provision relating to maintained schools or a description of maintained school, or to pupil referral units, to apply in relation to alternative provision Academies, or a description of alternative provision Academy, with or without modifications.

(2) Regulations may provide for a statutory provision relating to Academies, Academy schools or 16 to 19 Academies—

(a) to apply in relation to alternative provision Academies, or a description of alternative provision Academy, with or without modifications;

(b) not to apply in relation to alternative provision Academies or a description of alternative provision Academy.

(3) Regulations may provide for a statutory provision relating to alternative provision Academies or a description of alternative provision Academy—

(a) to apply in relation to a description of alternative provision Academy, with modifications;

(b) not to apply in relation to a description of alternative provision Academy.

(4) "Statutory provision" means a provision made by or under this or any other Act, whenever passed or made."

Commencement Information

I2 S. 53 in force at 1.2.2012 for specified purposes by S.I. 2012/84, **art. 3**

I3 S. 53 in force at 1.4.2012 in so far as not already in force by S.I. 2012/924, **art. 2**

54 Consequential amendments: 16 to 19 Academies and alternative provision Academies E+W

(1) Schedule 13 (16 to 19 Academies and alternative provision Academies: consequential amendments) has effect.

(2) The Secretary of State may by order make further changes in consequence of section 53 to any provision of—

(a) an Act passed before, or in the same Session as, this Act;

(b) subordinate legislation made before the date on which this Act is passed.

(3) "Subordinate legislation" has the meaning given by section 21(1) of the Interpretation Act 1978.

Commencement Information

I4 S. 54 in force at 1.4.2012 by S.I. 2012/924, **art. 2**

Academy orders

55 Academy orders: involvement of religious bodies etc E+W

(1) Section 4 of AA 2010 (Academy orders) is amended as follows.

(2) After subsection (1), insert—

"(1A) Before making an Academy order under subsection (1)(b) in respect of a foundation or voluntary school that has a foundation, the Secretary of State must consult—

(a) the trustees of the school,

(b) the person or persons by whom the foundation governors are appointed, and

(c) in the case of a school which has a religious character, the appropriate religious body."

(3) In subsection (4)—

(a) at the end of paragraph (a), omit "and";

(b) at the end insert ", and

(c) in the case of a foundation or voluntary school that has a foundation—

(i) the trustees of the school,

(ii) the person or persons by whom the foundation governors are appointed, and

(iii) in the case of a school which has a religious character, the appropriate religious body."

(4) In subsection (5)—

(a) at the end of paragraph (a), omit "and";

(b) at the end insert ", and

(c) in the case of a foundation or voluntary school that has a foundation—

(i) the trustees of the school,

(ii) the person or persons by whom the foundation governors are appointed, and

(iii) in the case of a school which has a religious character, the appropriate religious body."

(5) At the end, insert—

"(8) In this section, "the appropriate religious body", in relation to a school, means—

(a) in the case of a Church of England school or a Roman Catholic school, the appropriate diocesan authority;

(b) in any other case, such body or person representing the specified religion or religious denomination as is prescribed under section 88F(3)(e) of SSFA 1998.

(9) In the case of a school in relation to which there is more than one religion or religious denomination specified, references to "the appropriate religious body" are to be read as references to both or all of the bodies concerned.

(10) In subsections (8) and (9), "specified" means specified in the order under section 69(3) of SSFA 1998 relating to the school.

(11) Expressions used in this section and SSFA 1998 have the same meaning as in that Act."

Commencement Information

I5 S. 55 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

[F1]56 Academies: consultation on conversion E+W

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Textual Amendments

F1 S. 56 omitted (11.1.2017) by virtue of Education and Adoption Act 2016 (c. 6), **ss. 16(b)**, 19(2); S.I. 2017/6, reg. 2(b)

57 Academy conversions: federated schools E+W

(1) AA 2010 is amended as follows.

(2) In section 3 (application for Academy order) after subsection (5) insert—

"(6) In the case of a federated school, references in this section to the governing body include references to members of the governing body who—

(a) together make up a proportion of the total number of members that is specified in, or determined in accordance with, regulations, and

(b) consist of or include members of any prescribed description."

(3) In section 4 (Academy orders), in subsection (1)(a), for "the governing body of the school make an application" substitute " an application in respect of the school is made ".

(4) In section 7 (transfer of school surpluses)—

(a) in subsection (6)(a), after "made available" insert " in respect of the school ";

(b) in subsection (6), at the end, insert " This subsection is subject to subsection (9). ";

(c) in subsection (7), for "to a school's" substitute "in respect of a school to the school's";

(d) after subsection (8) insert—

"(9) If the school is a federated school, the questions of —

(a) whether the school has a surplus, and

(b) if so, the amount of the surplus,

are to be determined in accordance with regulations."

(5) In section 17 (interpretation of Act), in subsection (2), after the definition of "the conversion date" insert—

""federated school" has the meaning given by section 24(2) of EA 2002;".

Commencement Information

I6 S. 57 in force at 1.4.2012 by S.I. 2012/924, **art. 2**

58 Academy orders: local authority powers E+W

In section 6 of AA 2010 (effect of Academy order), after subsection (2) insert—

"(2A) Subsection (2) does not prohibit the local authority from providing financial or other assistance in respect of the Academy, including by—

(a) making payments in respect of some (but not all) of the expenses of maintaining the Academy,

(b) providing premises, goods or services for the Academy, or

(c) making premises, goods or services available to be used for the purposes of the Academy."

59 Transfer of property, rights and liabilities to Academies E+W

(1) Section 8 of AA 2010 (transfer of other property) is amended as follows.

(2) For subsection (2) substitute—

"(2) The Secretary of State may make a scheme (a "transfer scheme") in relation to—

(a) property used or held for the purposes of the school by a local authority or the school's governing body, and

(b) rights and liabilities (including rights and liabilities in relation to staff) of the local authority or the governing body which were acquired or incurred for the purposes of the school."

(3) In subsections (3) to (10), for "property transfer scheme" (in each place) substitute " transfer scheme ".

(4) In subsection (4), for "the proprietor of the Academy" substitute " a person concerned with the running of the Academy ".

(5) For the heading substitute " Transfer schemes: other property, rights and liabilities ".

Commencement Information

I7 S. 59 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

Academies: other provisions

60 Academies: new and expanded educational institutions E+W

(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)."

(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."

Commencement Information
I8 S. 60 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

61 Charges at boarding Academies E+W

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 E+W

(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

(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)."

Commencement Information

I9 S. 62 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

63 Academies: land E+W

Schedule 14 (Academies: land) has effect.

Commencement Information

I10 S. 63 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

64 Academy admissions arrangements: references to adjudicator E+W

(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."

Commencement Information

I11 S. 64 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

65 Academies: minor amendments E+W

Schedule 15 (Academies: minor amendments) has effect.

Commencement Information

I12 S. 65 in force at 1.2.2012 by S.I. 2012/84, **art. 3**

Changes to legislation:
There are currently no known outstanding effects for the Education Act 2011, Part 6.