



Education and Adoption Act 2016

2016 CHAPTER 6

Academies causing concern: intervention powers

14 Academies causing concern

After section 2 of the Academies Act 2010 insert—

“2A Academy agreements: provision about failing schools

- (1) An Academy agreement in respect of an Academy school or an alternative provision Academy must include provision allowing the Secretary of State to terminate the agreement if—
 - (a) special measures are required to be taken in relation to the Academy, or
 - (b) the Academy requires significant improvement.
- (2) The Academy agreement must require the Secretary of State, before terminating the agreement on one of those grounds, to give the proprietor an opportunity to make representations.
- (3) For the purposes of this section special measures are required to be taken in relation to an Academy, or an Academy requires significant improvement, if the Chief Inspector has given notice under section 13(3)(a) of the Education Act 2005.

2B Academy agreements: provision about coasting schools

- (1) An Academy agreement in respect of an Academy school or an alternative provision Academy must include provision allowing the Secretary of State to terminate the agreement if—
 - (a) the Academy is coasting, and
 - (b) the Secretary of State has notified the proprietor that it is coasting.
- (2) The Academy agreement must require the Secretary of State, before terminating the agreement on that ground, to give the proprietor a termination warning notice.

- (3) A termination warning notice is a notice requiring the proprietor—
 - (a) to take specified action to improve the Academy by a specified date, and
 - (b) to respond to the Secretary of State by making representations, or by agreeing to take that action, by a specified date.
- (4) The Academy agreement must provide that the power to terminate the agreement on the ground that the Academy is coasting is available only if the proprietor has failed to comply with a termination warning notice (whether by failing to take specified action, or to respond, on time).
- (5) The Secretary of State may by regulations provide that this section does not apply in relation to an Academy of a description specified in the regulations.
- (6) “Coasting”, in relation to an Academy to which this section applies, has the meaning given by regulations under subsection (3) of section 60B of the Education and Inspections Act 2006 in relation to a school to which that section applies.

2C Sections 2A and 2B supplementary - new agreements

- (1) An Academy agreement may include further provision about—
 - (a) the procedure for terminating the agreement in accordance with the provision required by section 2A or 2B;
 - (b) the consequences of terminating the agreement in accordance with that provision.
- (2) This section does not apply to agreements made before the day on which section 14 of the Education and Adoption Act 2016 comes into force (but see section 2D).

2D Sections 2A and 2B: supplementary - old agreements

- (1) An old Academy agreement is to be treated as if it included the new termination powers.
- (2) A provision of an old Academy agreement that relates to the procedure for terminating the agreement does not apply to the new termination powers.
- (3) Subsections (4) and (5) apply where an old Academy agreement—
 - (a) contains provision about the consequences of terminating the agreement (“relevant provision”), and
 - (b) the relevant provision is expressed in a way that is capable of covering termination in accordance with the new termination powers.
- (4) The relevant provision applies to termination in accordance with the new termination powers.
- (5) If the relevant provision sets out different consequences depending on whether the agreement is terminated on the ground that the proprietor has breached the Agreement or on other grounds, termination in accordance with the new termination powers is to be treated as termination on the grounds of breach by the proprietor.

(6) In this section—

“new termination powers”, in relation to an Academy agreement, means the powers to terminate in accordance with the provision required by sections 2A and 2B;

“old Academy agreement” means an Academy agreement made before the day on which section 14 of the Education and Adoption Act 2016 comes into force.”