

*Draft Order laid before Parliament under section 78(4) of the Education Act 2011, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

**EDUCATION, ENGLAND**

**The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012**

*Made* - - - - *2012*

*Coming into force in accordance with regulation 1*

The Secretary of State for Education makes this Order in exercise of the powers conferred by sections 54(2) and 78(2) of the Education Act 2011(a).

In accordance with section 78(4) of that Act, a draft of this instrument was laid before, and approved by a resolution of, each House of Parliament.

**Citation and commencement**

1. This Order may be cited as the Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 and shall come into force on the third day after the day on which it is made.

**Consequential amendment**

2. The consequential amendments made by the Schedule have effect.

**Transitional provision**

3. During any period when a provision of Chapter 1 of Part 4 of the Education and Skills Act 2008(b) (independent educational establishments in England) has effect only in relation to independent schools, references to independent educational institutions in section 93A of that Act (inserted by the Schedule), as it has effect in relation to that provision, are to be read as references to independent schools.

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Education

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(a) 2011 c.21.  
(b) 2008 c.25.

# SCHEDULE

Article 2

## Consequential Amendments

### Children Act 1989 (c.41)

1. The Children Act 1989 is amended as follows.
2. In section 87 (welfare of children in boarding schools and colleges)—
  - (a) in subsection (4)(a)(a) after “independent school” insert “, an alternative provision Academy that is not an independent school”;
  - (b) in subsection (11)(a)(b), after “independent school” insert “or an alternative provision Academy that is not an independent school”;
  - (c) in subsection (12), after “independent school” insert “or an alternative provision Academy that is not an independent school”.
3. In section 87B(c) (duties of inspectors under section 87A), in subsection (2)(a)(d), after “independent school” insert “, an alternative provision Academy that is not an independent school”.

### Education Act 1996 (c.56)

4. The Education Act 1996 is amended as follows.
5. In section 327 (access for local authority to certain schools), in subsection (1)(b)(e) after “independent school” insert “or an alternative provision Academy that is not an independent school”.
6. In section 519 (allowances for governors), in subsection (3)(b)(f), after “independent school” insert “, alternative provision Academy which is not an independent school”.
7. In section 537A(g) (provision of information about individual pupils), in subsection (1)(b), after “every” insert “(i)” and after “independent school,” insert “or  
“*(ii)* alternative provision Academy that is not an independent school,”
8. In section 547 (nuisance or disturbance on school premises)—
  - (a) in subsection (2) after paragraph (aa) omit the “and” and after paragraph (ab)(h) insert—  
“, and  
(ac) any alternative provision Academy that is not an independent school”;
  - (b) in subsection (4)(c)(i), after “independent school” insert “or an alternative provision Academy that is not an independent school”;

- 
- (a) Section 87(4) was substituted by section 105(1) and (2) of the Care Standards Act 2000 (c.14). Section 87(4)(a) was amended by SI 2010/1158.
  - (b) Section 87(10) to (12) was substituted for subsection (10) (as originally enacted) by section 105(1) and (4) of the Care Standards Act 2000. Section 87(11) was amended by SI 2010/1080.
  - (c) Section 87B was inserted by section 38 of the Deregulation and Contracting Out Act 1994 (c.40).
  - (d) Section 87B(2)(a) to (c) was substituted by section 106(2)(b) of the Care Standards Act 2000. Section 87B(2) was amended by SI 2010/1158.
  - (e) Section 327(1)(b) was substituted by section 140(1) of, and paragraph 78 of Schedule 30 to, the School Standards and Framework Act 1998 (c.31). Section 327(1)(b) was amended by section 173 of the Education Act 2002 (c. 32) and by SI 2010/1158.
  - (f) Section 519(3) was amended by section 140(1) of, and paragraph 139(1) and (3) of Schedule 30 to, the School Standards and Framework Act 1998 and SI 2010/1158.
  - (g) Section 537A was inserted by section 20 of the Education Act 1997 (c.44) and substituted by section 140(1) of, and paragraph 153 of Schedule 30 to, the School Standards and Framework Act 1998.
  - (h) Section 547(2)(aa) and (ab) was inserted by section 206 of, and paragraph 1(1) and (2) of Schedule 20 to, the Education Act 2002.
  - (i) Section 547(4) was substituted by section 206 of, and paragraph 1(1) and (5) of Schedule 20 to, the Education Act 2002.

- (c) in subsection (7)(c)(a), after “independent school” insert “, or an alternative provision Academy that is not an independent school”.

### **School Standards and Framework Act 1998**

9. In section 124B(1)(b) of the School Standards and Framework Act 1998 (designation of independent schools as having a religious character), after “independent school” insert “(other than an alternative provision Academy)”.

### **National Minimum Wage Act 1998 (c.39)**

10. In section 44A(c) of the National Minimum Wage Act 1998 (religious and other communities: resident workers), in subsection (3)(a), after “independent school” insert “or an alternative provision Academy that is not an independent school”.

### **Education Act 2002**

11. The Education Act 2002 is amended as follows.

12. In section 135A(d) (requirement to serve induction period: teachers in England), in subsection (1)(c), after “independent school” insert “or an alternative provision Academy that is not an independent school”.

13. In Chapter 1 of Part 10 (regulation of independent schools), before section 157 insert –

#### **“156AA Application of Chapter to alternative provision Academies that are not independent schools**

(1) This Chapter applies to alternative provision Academies that are not independent schools as it applies to independent schools in England.

(2) Accordingly, references in this Chapter to independent schools (apart from those that are independent schools in Wales) are to be read as including references to alternative provision Academies that are not independent schools.”

### **Children Act 2004 (c.31)**

14. In section 12 of the Children Act 2004 (information databases), in subsection (7), after paragraph (e) insert—

“(ea) the proprietor of an alternative provision Academy that is not an independent school (within the meaning of that Act);”.

### **Income Tax (Trading and Other Income) Act 2005 (c.5)**

15. In section 71 of the Income Tax (Trading and Other Income) Act 2005 (educational establishments for the purposes of section 70), in subsection (1) after paragraph (c) insert –

“(ca) an alternative provision Academy that is not an independent school within the meaning of the Education Act 1996,”.

### **Childcare Act 2006 (c.21)**

16. The Childcare Act 2006 is amended as follows.

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- (a) Section 547(6) and (7) was substituted by section 206 of, and paragraph 1(1) and (6) of Schedule 20 to, the Education Act 2002.
- (b) Section 124B was inserted by SI 2003/2037.
- (c) Section 44A was inserted by section 22 of the Employment Relations Act 1999 (c.26).
- (d) Section 135A is inserted by section 9 of the Education Act 2011.

17. In section 13 (duty to provide information, advice and training to childcare providers), in subsection (1)(c)(iii)(a), after “independent school” insert “or an alternative provision Academy that is not an independent school”.

18. In section 49 (inspection of early years provision), in subsection (4)(b), after “independent school” insert “or an alternative provision Academy that is not an independent school”.

19. In section 53 (requirement to register: other later years providers for children under eight), in subsection (2)(a)(iii)(c), after “independent school” insert “or an alternative provision Academy that is not an independent school”.

20. In section 63 (application for registration on the general register: other childcare providers), in subsection (3)(a)(iii)(d), after “independent school” insert “or an alternative provision Academy that is not an independent school”.

#### **Safeguarding Vulnerable Groups Act 2006 (c. 47)**

21. In Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (regulated activity relating to children)—,

- (a) in paragraph 3(1), after paragraph (aa)(e) insert—
  - “(ab) an alternative provision Academy which does not fall within paragraph (a);”;
- (b) in paragraph 4(1)(aab)(f), after “school” insert “or an alternative provision Academy which is not an independent school”;
- (c) in paragraph 4(1)(aac), after “school” insert “or an alternative provision Academy which is not an independent school”.

#### **Education and Skills Act 2008 (c.25)**

22. In Chapter 1 of Part 4 of the Education and Skills Act 2008 (independent educational institutions in England), after section 93 insert—

##### **“93A Application of Chapter to alternative provision Academies that are not independent educational institutions**

(1) This Chapter applies to alternative provision Academies that are not independent educational institutions as it applies to independent educational institutions.

(2) Accordingly, references in this Chapter (except in sections 95(2) and 140(1)) to independent educational institutions are to be read as including references to alternative provision Academies that are not independent educational institutions.”

#### **Corporation Tax Act 2009 (c. 4)**

23. In section 71 of the Corporation Tax Act 2009 (educational establishments for the purposes of section 70), in subsection (1), after paragraph (c) insert—

- “(ca) an alternative provision Academy that is not an independent school within the meaning of the Education Act 1996.”.

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- (a) Section 13(1) is amended by section 169(1) of, and paragraphs 30 and 31 of Part 1 of Schedule 1 (not yet in force) to, the Education and Skills Act 2008.
  - (b) Section 49(4) is amended by section 169(1) of, and paragraphs 30 and 33 of Part 1 of Schedule 1 (not yet in force) to, the Education and Skills Act 2008.
  - (c) Section 53(2) is amended by section 169(1) of, and paragraphs 30 and 34 of Part 1 of Schedule 1 (not yet in force) to, the Education and Skills Act 2008.
  - (d) Section 63(3) is amended by section 169(1) of, and paragraphs 30 and 35 of Part 1 of Schedule 1 (not yet in force) to, the Education and Skills Act 2008.
  - (e) Paragraph 3(1)(aa) of Part 1 of Schedule 4 was inserted by SI 2010/1154.
  - (f) Paragraph 4(1)(aaa) to (aac) was inserted by SI 2010/1154.

## **Equality Act 2010 (c.15)**

**24.** The Equality Act 2010 is amended as follows.

**25.** In section 85 (pupils: admission and treatment, etc)—

(a) in subsection (7), after paragraph (b) insert—

“(ba) an alternative provision Academy that is not an independent educational institution;”;

(b) in subsection (9)(b) after “(7)(b)” insert “, (ba)”.

**26.** In section 87 (application of certain powers under Education Act 1996), in subsection (2)(a) after “special school”, insert “or an alternative provision Academy that is not an independent educational institution”.

**27.** In Schedule 10 (accessibility for disabled pupils), in paragraph 6(5)(c), after “institution” insert “or an alternative provision Academy that is not an independent educational institution”.

**28.** In Part 2 of Schedule 11 (schools: exceptions: religious or belief-related discrimination), in paragraph 5(b), after “a school” insert “(other than an alternative provision Academy)”.

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Schedule to this Order makes amendments that are consequential on the creation of new types of Academies by the Education Act 2011 (“the 2011 Act”). Section 53 of the 2011 Act inserts new sections 1A to 1D into the Academies Act 2010 which provide for three types of Academies: Academy schools (existing Academies), 16 to 19 Academies and alternative provision Academies.

The Schedule to the Order makes amendments to existing legislation to ensure that it applies correctly, or does not apply, to alternative provision Academies. The Order also includes a transitional provision.

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(a) Section 87(2) is amended by SI 2010/2279.





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