

*These notes refer to the Education Act 2002 (c.32)
which received Royal Assent on 24 July 2002*

EDUCATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 5 – School Organisation

Academies and city colleges

Sections 65 to 69

Section 65 and Schedule 7: Academies

184. Section 482 of the EA 96, as originally enacted, made provision for the setting up of schools known as city technology colleges (CTCs) and city colleges for the technology of the arts (CCTAs). These are independent secondary schools with private sponsors which receive funding from central government. As their names suggest they have a particular subject emphasis and are situated in urban areas.
185. That section was amended by the LSA to allow for a further category of secondary school – city academies. These schools were based on a similar model to CTCs, but could have a curriculum emphasis drawn from a wider range of subjects, within limits prescribed by the Secretary of State.
186. Subsection (1) of section 65 replaces the whole section. It provides for the setting up of Academies. The basic model is the same as that for CTCs and city academies without some of the restrictions which apply to those schools.
- Academies can be set up anywhere in England (but not Wales). Unlike CTCs, CCTAs and city academies they are not limited to urban areas;
 - Academies can, with the agreement of the Secretary of State, have an emphasis on any subject area, or combination of areas;
 - Academies will be able to provide primary and/or secondary education, not just secondary education.
187. Since the power to create CTCs, CCTAs and city academies is being replaced, no more such schools will be created (but see sections 63 and 64 for what happens to existing schools).
188. Subsection (2) of section 65 amends section 483 of the EA 96. It provides that the funding agreement for an Academy may make provision for the repayment of capital grants to the Secretary of State in the event of the termination of the funding agreement. This differs from the existing – and continuing – provisions for CTCs and CCTAs where the funding agreement must make provision for the repayment of capital grant to the Secretary of State in such an event.
189. Subsection (3) of section 65 provides for a new Schedule (Schedule 7) which inserts a new Schedule (Schedule 35A) into the EA 96. This Schedule makes provision

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about land in relation to Academies. It largely repeats the provision that was made by Schedule 8 to the LSA for city academies.

190. **Part 2** of the Schedule amends existing legislation so as to put Academies in the same position as CTCs, CCTAs and city academies. Since, as explained below, existing city academies are to become Academies, this is chiefly a question of replacing references to city academies with references to Academies.
191. The new Schedule also adds the following provisions:
- disapplication of the rule against perpetuities in relation to options granted in favour of an LEA where that land was transferred from that LEA to an Academy for no consideration. Without this disapplication the common law rule against perpetuities would limit to 21 years any option granted to return land to the LEA where the Academy closed or ceased to use the land;
 - disapplication of section 153 of the Law of Property Act 1925 so that leaseholds of not less than 300 years granted by LEAs when transferring land for Academies cannot be enlarged into freeholds;
 - an enabling provision for the Secretary of State to give class consent to allow LEAs to dispose of certain categories of land which had been used for the purposes of a county or community school.

Section 66: Arrangements for the admission of pupils to Academies

192. This section amends section 85 of the SSFA by inserting section 85B, which may require, through regulations, an Admission Forum to advise Academies about local admission arrangements. Where such advice is promulgated, this section imposes a duty on the governing body of an Academy to have regard to such advice.

Section 67: Conversion of city academies into Academies

193. To avoid unnecessary multiplication of categories, section 67 provides that all existing city academies are technically to become 'Academies'. Their funding agreements are deemed to be made under the new provision (but are otherwise unchanged).

Section 68: City colleges

194. In the case of an existing CTC or CCTA, a school may choose to change its name so that it becomes an Academy. In that case, its agreement will be deemed to be made under the new section 482. Otherwise CTCs and CCTAs are not affected by the new provisions.

Section 69: Uniform statutory trusts

195. **Section 69** provides for Academies and CTCs and CCTAs which provide denominational education to be added to denominational aided and foundation schools as the categories of schools which can benefit from funds held under uniform statutory trusts. Uniform statutory trusts are a standard type of statutory trust which may be incorporated in an order made by the Secretary of State in respect of a closed Church school, to allow the relevant Diocese to apply the proceeds of sale for the benefit of other Church schools.