

Academies Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Education, are published separately as Bill 57 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Michael Gove has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Academies Bill [HL] are compatible with the Convention rights.

Academies Bill [HL]

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[NOTE: The words marked in bold type were inserted by the Lords to avoid questions of privilege.]

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B I L L

TO

Make provision about Academies.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Academy arrangements

1 Academy arrangements

- (1) The Secretary of State may enter into Academy arrangements with any person (“the other party”).
- (2) “Academy arrangements” are arrangements that take the form of— 5
 - (a) an Academy agreement, or
 - (b) arrangements for Academy financial assistance.
- (3) An Academy agreement is an agreement between the Secretary of State and the other party under which— 10
 - (a) the other party gives the undertakings in subsection (5), and
 - (b) the Secretary of State agrees to make payments to the other party in consideration of those undertakings.
- (4) Academy financial assistance is financial assistance given by the Secretary of State under section 14 of EA 2002 on terms that require the other party to give the undertakings in subsection (5). 15
- (5) The undertakings are— 20
 - (a) to establish and maintain an independent school in England which—
 - (i) has characteristics that include those in subsection (6), or
 - (ii) is specially organised to make special educational provision for pupils with special educational needs;
 - (b) to carry on, or provide for the carrying on of, the school.
- (6) The characteristics are that—

- (a) the school has a curriculum satisfying the requirements of section 78 of EA 2002 (balanced and broadly based curriculum);
 - (b) if the school provides secondary education, its curriculum for the secondary education has an emphasis on a particular subject area, or particular subject areas, specified in the arrangements; 5
 - (c) the school provides education for pupils of different abilities;
 - (d) the school provides education for pupils who are wholly or mainly drawn from the area in which the school is situated.
- (7) Academy arrangements in relation to a school within subsection (5)(a)(i) must include provision imposing obligations on the proprietor of the school that are equivalent to the SEN obligations. 10
- (8) “The SEN obligations” are the obligations imposed on governing bodies of maintained schools by –
- (a) Chapter 1 of Part 4 of EA 1996 (children with special educational needs), and 15
 - (b) regulations made under any provision of that Chapter.
- (9) Academy arrangements must include terms imposed for the purpose of securing that no charge is made in respect of –
- (a) admission to, or attendance at, the school, or
 - (b) (subject to any exceptions specified in the terms) education provided at the school. 20
- (10) A school to which Academy arrangements relate is to be known as an Academy.

2 Payments under Academy agreements

- (1) Payments under an Academy agreement may be in respect of capital or current expenditure. 25
- (2) So far as payments under an Academy agreement relate to current expenditure, the agreement must provide for them to continue (subject to other requirements of the agreement being fulfilled) –
- (a) for at least 7 years, or 30
 - (b) indefinitely, but terminable by the Secretary of State giving at least 7 years’ written notice.
- (3) If an Academy agreement makes provision for payments in respect of capital expenditure, the agreement may provide for the repayment to the Secretary of State, in circumstances specified in the agreement, of sums determined in accordance with the agreement. 35
- (4) An Academy agreement may provide for indemnifying a person, in the event of the Secretary of State terminating the agreement, for expenditure –
- (a) incurred by the person in carrying out the undertakings under the agreement, or 40
 - (b) incurred by the person (otherwise than by virtue of subsection (3)) in consequence of the termination of the agreement.
- (5) In Schedule 1 to the School Finance (England) Regulations 2008, after

paragraph 8 insert –

“8A. Where a child is a registered pupil at an Academy, expenditure in respect of services for making provision for pupils with low incidence special educational needs or disabilities.”

- (6) Where a local authority fails to secure satisfactory provision for pupils with low incidence special educational needs or disabilities, the Secretary of State may make alternative arrangements. 5

Conversion of schools into Academies

3 Application for Academy order

- (1) The governing body of a maintained school in England may apply to the Secretary of State for an Academy order to be made in respect of the school. 10
- (2) In the case of a foundation or voluntary school that has a foundation, this is subject to subsections (3) and (4).
- (3) The governing body of a foundation or voluntary school that has a foundation must consult the foundation before making an application under this section. 15
- (4) The governing body of a foundation or voluntary school that has a foundation may make an application under this section only with the consent of –
- (a) the trustees of the school, and
 - (b) the person or persons by whom the foundation governors are appointed. 20
- (5) Expressions used in subsections (2) to (4) and SSFA 1998 have the same meaning as in that Act.

4 Academy orders

- (1) The Secretary of State may make an Academy order in respect of a maintained school in England if – 25
- (a) the governing body of the school make an application under section 3, or
 - (b) the school is eligible for intervention (within the meaning of Part 4 of EIA 2006).
- (2) An Academy order in respect of a school is an order for the purpose of enabling the school to be converted into an Academy. 30
- (3) A maintained school is “converted into” an Academy if Academy arrangements are entered into in relation to the school or a school that replaces it.
- (4) If an Academy order is made in respect of a school, the Secretary of State must give a copy of the order to – 35
- (a) the governing body and head teacher of the school, and
 - (b) the local authority.
- (5) If, after an application has been made under section 3, the Secretary of State decides not to make an Academy order in respect of a school, the Secretary of State must inform the following of the decision and the reasons for it – 40

- (a) the governing body and head teacher of the school, and
 (b) the local authority.
- (6) Despite section 568(1) of EA 1996 (orders to be made by statutory instrument) (as applied by section 17(4) of this Act) the power of the Secretary of State to make an Academy order is not required to be exercised by statutory instrument. 5
- (7) An Academy order may include incidental, consequential, supplemental and transitional provision.
- 5 Consultation on conversion**
- (1) Before a maintained school in England is converted into an Academy, the school’s governing body must consult such persons as they think appropriate. 10
- (2) The consultation must be on the question of whether the school should be converted into an Academy.
- (3) The consultation may take place before or after an Academy order, or an application for an Academy order, has been made in respect of the school. 15
- 6 Effect of Academy order**
- (1) This section applies if an Academy order has effect in respect of a school.
- (2) The local authority must cease to maintain the school on the date (“the conversion date”) on which the school, or a school that replaces it, opens as an Academy (“the Academy”). 20
- (3) If the school is a selective school, section 1(6)(c) (requirement to provide education for pupils of different abilities) does not apply in relation to any Academy arrangements to be entered into in relation to the school or a school that replaces it.
- (4) For this purpose a school is a “selective school” if its admission arrangements make provision for selection of pupils by ability, and – 25
- (a) its admission arrangements are permitted to do so by section 100 of SSFA 1998 (permitted selection: pre-existing arrangements), or
- (b) the school is designated under section 104 of SSFA 1998 (designation of grammar schools). 30
- Section 99(5) of SSFA 1998 applies for the purposes of this subsection as it applies for the purposes of Chapter 2 of Part 3 of SSFA 1998.
- (5) The relevant independent school standards are to be treated as met in relation to the Academy on the conversion date.
- (6) “The relevant independent school standards” are the independent school standards (as defined in section 157(2) of EA 2002) that are applicable to the Academy on the conversion date. 35
- (7) Subsection (8) applies if the school is a foundation or voluntary school which is designated by order under section 69(3) of SSFA 1998 as a school having a particular religious character. 40
- (8) The Academy is to be treated, on the conversion date, as designated by order under section 69(3) of SSFA 1998 as an independent school having that religious character.

- (9) Nothing in any of the following provisions applies in a case where a local authority cease to maintain a school as a result of an Academy order –
 section 30 of SSFA 1998 (notice to discontinue school);
 sections 15 to 17 of EIA 2006 (procedure for discontinuance of schools).

7 Transfer of school surpluses

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- (1) This section applies if –
- (a) an Academy order has effect in respect of a school,
 - (b) the order was made following an application under section 3, and
 - (c) the school is to be converted into an Academy.
- (2) The local authority must determine – 10
- (a) whether, immediately before the conversion date, the school has a surplus, and
 - (b) if so, the amount of the surplus.
- (3) The local authority must pay any amount determined under subsection (2)(b) to the proprietor of the Academy, subject to the provisions of regulations under subsection (4). 15
- (4) Regulations may make provision in connection with the determination and payment of the amount of a surplus under this section.
- (5) Regulations under subsection (4) may in particular include provision –
- (a) requiring the local authority to inform the proprietor of the determinations under subsection (2); 20
 - (b) authorising the proprietor to apply to the Secretary of State for a review of those determinations;
 - (c) about the procedure for, and the Secretary of State’s powers on, any such review; 25
 - (d) about the effect of any such review on the amount required to be paid by the local authority to the proprietor (including provision requiring repayment of sums by the proprietor or the payment of additional sums by the local authority);
 - (e) about the time limits for doing anything required or permitted to be done under this section or the regulations. 30
- (6) For the purposes of this section –
- (a) a school has a surplus immediately before the conversion date if, at that time, there is an amount made available by a local authority to the school’s governing body (under section 50 of SSFA 1998 or otherwise) that has not been spent by the governing body or the head teacher; 35
 - (b) the amount of the surplus is that amount.
- (7) For the purposes of subsection (6), the amount which, immediately before the conversion date, has been made available to a school’s governing body must be calculated taking into account any relevant redetermination for the funding period in which the conversion date falls. 40
- (8) In subsection (7) –
- “funding period” has the meaning given by section 45(1B) of SSFA 1998;
 “relevant redetermination” means a redetermination of the school’s budget share which is required in accordance with regulations under section 47 of that Act. 45

8 Transfer of other property

- (1) This section applies if—
- (a) an Academy order has effect in respect of a school, and
 - (b) the school is to be converted into an Academy.
- (2) The Secretary of State may make a scheme (a “property transfer scheme”) in relation to property, rights or liabilities which are— 5
- (a) held for the purposes of the school by a local authority or the school’s governing body, and
 - (b) specified in, or determined in accordance with, the scheme.
- (3) A property transfer scheme may not make provision in relation to— 10
- (a) land, or rights or liabilities in respect of land (see Schedule 1), or
 - (b) property or rights to which section 7 applies.
- (4) A property transfer scheme may provide for the transfer of property, rights and liabilities to the proprietor of the Academy.
- (5) A property transfer scheme may— 15
- (a) create rights, or impose liabilities, in relation to property, rights or liabilities transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the current owner in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the transferee; 20
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (6) The things that may be transferred by a property transfer scheme include— 25
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.
- (7) A transfer by virtue of a property transfer scheme does not affect the validity of anything done by or in relation to the current owner before the transfer takes effect. 30
- (8) A property transfer scheme may include incidental, consequential, supplemental and transitional provision.
- (9) In this section “the current owner” means the person by whom the property is held, or in whom the rights or liabilities are vested, immediately before the transfer to be effected by a property transfer scheme takes effect. 35
- (10) A transfer made by virtue of a property transfer scheme is binding on all persons even if, apart from this subsection, it would have required the consent or concurrence of any person.

*Academies: other provisions***9 Impact: additional schools**

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- (1) This section applies when the Secretary of State is deciding whether to enter into Academy arrangements in relation to an additional school.

- (2) The Secretary of State must take into account what the impact of establishing the additional school would be likely to be on maintained schools, Academies and institutions within the further education sector in the area in which the additional school is (or is proposed to be) situated.
- (3) A school is an “additional school” for the purposes of this section if— 5
- (a) it does not replace a maintained school that has been or is to be discontinued, and
 - (b) it is not a school in respect of which an Academy order has effect.
- (4) For the purposes of subsection (3)(a) a school does not replace a maintained school if it provides education for pupils of a wider range of ages than the maintained school. 10
- 10 Consultation: additional schools**
- (1) Before entering into Academy arrangements with the Secretary of State in relation to an additional school, a person must consult such persons as the person thinks appropriate. 15
- (2) The consultation must be on the question of whether the arrangements should be entered into.
- (3) “Additional school” has the same meaning as in section 9.
- 11 Annual reports**
- (1) For each academic year the Secretary of State must prepare and publish a report containing information on— 20
- (a) Academy arrangements entered into during the year, and
 - (b) the performance of Academies during the year (see subsection (2)).
- (2) The report must include information relating to the performance of Academies which has been provided to the Secretary of State pursuant to— 25
- (a) regulations made under section 537 of EA 1996 (power of Secretary of State to require information);
 - (b) Academy arrangements.
- (3) The first report under this section must relate to the academic year beginning 1 August 2010. 30
- (4) The Secretary of State must lay before Parliament a copy of each report under this section.
- (5) In this section “academic year” means a period of 12 months beginning on 1 August.
- 12 Charitable status of Academy proprietors etc** 35
- (1) A qualifying Academy proprietor is a charity.
- (2) A “qualifying Academy proprietor” is a company—
- (a) which is limited by guarantee,
 - (b) whose registered office is situated in England and Wales,
 - (c) which in pursuance of Academy arrangements is the proprietor of an Academy, and 40

- (d) whose object as expressed in its articles or memorandum of association (or each of whose objects as so expressed) is a charitable purpose.
- (3) Expressions used in subsection (2) and in the Companies Act 2006 have the same meaning in that subsection as in that Act.
- (4) In Schedule 2 to the Charities Act 1993 (exempt charities), after paragraph (c) insert— 5
- “(ca) a qualifying Academy proprietor (as defined in section 12(2) of the Academies Act 2010);”.
- 13 Academies: land**
- Schedule 1 (Academies: land) has effect. 10
- 14 Academies: amendments**
- Schedule 2 (Academies: amendments) has effect.
- General*
- 15 Transitional provisions**
- (1) This section applies to references in a provision of an Act or any other instrument or document, in relation to times on and after the commencement date. 15
- (2) But it does not apply to references in sections 1 to 8 or this section, and is subject to any contrary provision made by or under this or any other Act.
- (3) A reference to Academy arrangements is to be read as including a reference to an agreement under section 482 of EA 1996. 20
- (4) A reference to an Academy is to be read as including a reference to a city technology college and a city college for the technology of the arts.
- (5) A reference to an agreement under section 482 of EA 1996 is to be read as being or (according to context) including a reference to Academy arrangements. 25
- (6) If an agreement under section 482 of EA 1996 has effect immediately before the commencement date in relation to a school which is known as an Academy, the agreement is to be treated as an Academy agreement under section 1 of this Act.
- (7) Subsections (8) and (9) apply if an agreement under section 482 of EA 1996 has effect immediately before the commencement date in relation to a school which is known as a city technology college or a city college for the technology of the arts. 30
- (8) If the proprietor of the school and the Secretary of State agree— 35
- (a) the agreement under section 482 of EA 1996 is to be treated as an Academy agreement under section 1 of this Act, and
- (b) the school is accordingly to be known as an Academy.
- (9) In any other case, the continued operation of the agreement under section 482 of EA 1996 is not affected by the repeal by this Act of— 40
- (a) section 482(1) to (5) of EA 1996, or

(b) section 68 of EA 2002.

- (10) In this section “the commencement date” means the date on which section 1 comes into force.

16 Pre-commencement applications etc

- (1) Subsection (2) applies if, before the commencement date, the governing body of a maintained school in England make an application to the Secretary of State which, if it had been made on or after that date, would have been an application under section 3. 5
- (2) The application is to be treated as an application under that section.
- (3) Subsection (4) applies if, before the commencement date— 10
- (a) steps are taken by the governing body of a foundation or voluntary school that has a foundation, and
- (b) if section 3 had been in force, those steps would have satisfied the requirement of section 3(3) (consultation of foundation).
- (4) The steps are to be treated as satisfying that requirement. 15
- (5) Subsection (6) applies if, before the commencement date—
- (a) consent to an application by a governing body is given, and
- (b) if section 3 had been in force, the consent would have satisfied any requirement of section 3(4) (consent of trustees and persons appointing foundation governors). 20
- (6) The consent is to be treated as satisfying that requirement.
- (7) In this section “the commencement date” means the date on which section 3 comes into force.

17 Interpretation of Act

- (1) In this Act— 25
- “EA 1996” means the Education Act 1996;
- “SSFA 1998” means the School Standards and Framework Act 1998;
- “EA 2002” means the Education Act 2002;
- “EA 2005” means the Education Act 2005;
- “EIA 2006” means the Education and Inspections Act 2006; 30
- “ASCLA 2009” means the Apprenticeships, Skills, Children and Learning Act 2009;
- “CSFA 2010” means the Children, Schools and Families Act 2010.
- (2) In this Act—
- “the Academy”, in a case in which an Academy order is made, has the meaning given by section 6(2); 35
- “the conversion date” has the meaning given by section 6(2);
- “the local authority” in relation to a maintained school, means the authority by which the school is maintained;
- “maintained school” means — 40
- (a) a community, foundation or voluntary school, or
- (b) a community or foundation special school.

- (3) Section 4(3) (when a maintained school is “converted into” an Academy) applies for the purposes of this Act.
- (4) EA 1996 and sections 1 to 13, 15 and 16 of this Act are to be read as if those sections were contained in EA 1996.
- (5) Unless the context otherwise requires, a reference in this Act to— 5
 - (a) a community, foundation or voluntary school, or
 - (b) a community or foundation special school,
is to such a school within the meaning of SSFA 1998.

18 Extent

- (1) This Act extends to England and Wales only, subject to subsection (2). 10
- (2) An amendment or repeal made by this Act has the same extent as the provision to which it relates.

19 Commencement

- (1) Sections 15 to 20 come into force on the day on which this Act is passed.
- (2) The other provisions of this Act come into force on whatever day or days the Secretary of State appoints by order made by statutory instrument. 15
- (3) An order under subsection (2)—
 - (a) may make different provision for different purposes or different areas;
 - (b) may make incidental, consequential, supplemental, transitional or transitory provision or savings. 20

20 Short title

- (1) This Act may be cited as the Academies Act 2010.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of EA 1996.
- (3) **Nothing in this Act shall impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge.** 25

SCHEDULES

SCHEDULE 1

Section 13

ACADEMIES: LAND

Transfer scheme where land ceases to be used for maintained school

- 1 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met. 5
- (2) The requirements are as follows –
- (a) a local authority holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) at any time in the period of 8 years ending with the day on which the scheme is made the land was used wholly or mainly for the purposes of a maintained school; 10
 - (c) at the time the scheme is made the land is no longer used as mentioned in paragraph (b) or the Secretary of State thinks it is about to be no longer so used. 15
- (3) The scheme must meet the requirements in paragraph 3(1).

Transfer scheme following proposals for establishment of new school

- 2 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met.
- (2) The requirements are as follows – 20
- (a) a local authority holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) the land forms the whole or part of a site specified in a notice published under section 7 of EIA 2006 (invitation for proposals for establishment of new schools) as a possible site for a new school; 25
 - (c) before making the scheme, the Secretary of State consulted the authority.
- (3) The scheme must meet the requirements in paragraph 3(1).

Transfer schemes under paragraphs 1 and 2: general

- 3 (1) These requirements must be met as regards a scheme under paragraph 1 or 2 – 30
- (a) the scheme must provide for a transfer of the land or such part of it as is specified in the scheme;

-
- (b) the scheme must specify whether the transfer is the transfer of a freehold or leasehold interest in the land or the grant of a lease in respect of the land (see paragraph 12(4));
- (c) the transfer must be to a person who is specified in the scheme and is concerned with the running of an Academy; 5
- (d) the transfer must be made to the transferee for the purposes of the Academy;
- (e) in the case of a scheme under paragraph 2, the Academy must have been the subject of proposals published under section 7 of EIA 2006;
- (f) the scheme must make provision about the transfer to the transferee of any right or liability held by the local authority as holder of the land or specified part concerned. 10
- (2) In sub-paragraph (1) the reference to a right or liability –
- (a) includes a reference to a right or liability as a trustee, but
- (b) excludes a reference to a liability in respect of the principal of or interest on a loan. 15
- (3) A scheme may include incidental, consequential, supplemental and transitional provision.
- (4) A scheme under paragraph 1 must be so expressed that it does not come into force while the land concerned is used for the purposes of a maintained school. 20
- (5) A scheme comes into force –
- (a) on the day it specifies for it to come into force, or
- (b) on the day it otherwise identifies as the day for it to come into force.
- (6) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the land, rights and liabilities to which it applies. 25
- (7) A transfer made by virtue of a scheme is binding on all persons even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.
- Transfer direction where Academy order made: land held by governing body, foundation body or trustees* 30
- 4 (1) This paragraph applies where an Academy order is made in respect of –
- (a) a voluntary school,
- (b) a foundation school, or
- (c) a foundation special school. 35
- (2) The Secretary of State may make one or more of the directions listed in sub-paragraph (3) in respect of publicly funded land which is held for the purposes of the school by –
- (a) the governing body of the school,
- (b) the foundation body of the school, or 40
- (c) the trustees of the school.
- (3) The directions are –
- (a) that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the

- payment by that local authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
- (b) that the governing body, the foundation body or the trustees, as the case may be, pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land; 5
- (c) that the land or any part of the land be transferred to a person concerned with the running of the Academy.
- (4) Unless otherwise specified in the direction, any transfer of land pursuant to sub-paragraph (3) is to take place on the conversion date. 10
- (5) Land transferred to a local authority pursuant to a direction under this paragraph may be the subject of a transfer scheme under paragraph 1.

Transfer of land on dissolution of governing body

- 5 (1) This paragraph applies where – 15
- (a) a governing body of a school are to be dissolved by virtue of paragraph 5(2)(a)(iv) of Schedule 1 to EA 2002 (dissolution of governing body on conversion date following Academy order),
- (b) on the conversion date, the governing body hold publicly funded land for the purposes of the school, and 20
- (c) the land is not transferred on the conversion date (pursuant to a direction under paragraph 4 or otherwise).
- (2) Where a governing body are so dissolved –
- (a) all publicly funded land which is held by the governing body for the purposes of the school, and 25
- (b) all rights and liabilities of the governing body in relation to the land, are transferred as provided in sub-paragraph (3).
- (3) The land, rights and liabilities are, on the conversion date, transferred to, and by virtue of this Act vest in –
- (a) the local authority that maintained the school, or 30
- (b) such person concerned with the running of an Academy as the Secretary of State directs before the conversion date.
- (4) Sub-paragraph (2) does not apply to –
- (a) any land for which provision has been made for payment under paragraph 4(3)(b), 35
- (b) any land which is held by the governing body on trust for the purposes of the school, or
- (c) unless the Secretary of State otherwise directs before the conversion date, any liabilities of the governing body in respect of a loan made to the governing body. 40
- (5) Subject to sub-paragraphs (6) and (7), a governing body who are to be dissolved as mentioned in sub-paragraph (1) may transfer any land which is held by them on trust for the purposes of the school to any person to hold such land on trust for purposes connected with the provision of education in schools. 45

- (6) Sub-paragraph (5) does not apply to land in respect of which a direction has been made under paragraph 4(3)(a) or (c).
- (7) Sub-paragraph (5) does not apply to land held by a governing body on trust for the purposes of the school in a case where any other persons (“other trustees”) also hold land on trust for the purposes of the school. 5
- (8) In a case mentioned in sub-paragraph (7), the land held on trust by the governing body is, on the conversion date, transferred to, and by virtue of this Act vests in, the other trustees.
- (9) If any doubt or dispute arises as to the persons to whom land is transferred under sub-paragraph (8), it is to be treated as so transferred to such persons as the Secretary of State directs. 10

Former Academies: transfer scheme for land acquired from local authority

- 6 (1) This paragraph applies if—
- (a) there is a transfer of land from a local authority on or after 28 July 2000, 15
- (b) the transfer is made to a person for the purposes of an Academy, and
- (c) the first or the second condition set out below is satisfied.
- (2) The first condition is that—
- (a) the school concerned ceases to be an Academy, and
- (b) immediately before the school ceases to be an Academy the land is held by a person for the purposes of the Academy. 20
- (3) The second condition is that, although the school concerned continues to be an Academy, the land ceases to be held for the purposes of the Academy.
- (4) This paragraph applies whether or not the transfer is made by virtue of a scheme under paragraph 1 or 2. 25
- (5) Sub-paragraph (2) applies whether or not, on the school ceasing to be an Academy, it simultaneously ceases to function as a school.
- (6) The Secretary of State may make a scheme providing for the transfer of the land, or such part of it as is specified in the scheme—
- (a) from the person holding it; 30
- (b) back to the authority from which the transfer mentioned in sub-paragraph (1)(a) was made.
- (7) The scheme must make provision about the transfer to the authority of any right or liability held by the transferor as holder of the land or specified part concerned. 35
- (8) In sub-paragraph (7) the reference to a right or liability—
- (a) includes a reference to a right or liability as a trustee, but
- (b) excludes a reference to a liability in respect of the principal of or interest on a loan.
- (9) A scheme may include incidental, consequential, supplemental and transitional provision. 40
- (10) A scheme comes into force—
- (a) on the day it specifies for it to come into force, or

- (b) on the day it otherwise identifies as the day for it to come into force.
- (11) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the land, rights and liabilities to which it applies.
- (12) A transfer made by virtue of a scheme is binding on all persons even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person. 5

Former Academies: transfer directions

- 7 (1) This paragraph applies if –
- (a) publicly funded land is transferred on or after 28 July 2000 from –
 - (i) a governing body of a school, 10
 - (ii) a foundation body of a school, or
 - (iii) the trustees of a school,
 - (b) the transfer is made to a person for the purposes of an Academy, and
 - (c) the first or the second condition set out below is satisfied.
- (2) This paragraph also applies if – 15
- (a) publicly funded land has been held for the purposes of a maintained school by the trustees of the school,
 - (b) the land is held by the trustees for the purposes of an Academy, and
 - (c) the first or the second condition set out below is satisfied.
- (3) The first condition is that – 20
- (a) the school concerned ceases to be an Academy, and
 - (b) immediately before the school ceases to be an Academy the land is held by a person for the purposes of the Academy.
- (4) The second condition is that, although the school concerned continues to be an Academy, the land ceases to be held for the purposes of the Academy. 25
- (5) Sub-paragraph (3) applies whether or not, on the school ceasing to be an Academy, it simultaneously ceases to function as a school.
- (6) The Secretary of State may make one or more of the following directions –
- (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate; 30
 - (b) in a case where this paragraph applies by virtue of sub-paragraph (1), a direction that the land or any part of the land be transferred back to the person from whom the transfer mentioned in sub-paragraph (1)(a) was made, subject to the payment of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate; 35
 - (c) a direction that the person holding the land pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land. 40

Transfer directions: general

- 8 Where a transfer pursuant to a direction under paragraph 4 or 7 relates to registered land, it is the duty of the transferor –
- (a) to execute any such instrument under the Land Registration Act 2002,
 - (b) to deliver any such certificate under that Act, and
 - (c) to do such other things under that Act,
- as the transferor would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.

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Disapplication of rule against perpetuities

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- 9 (1) Where –
- (a) land is transferred for no consideration for the purposes of an Academy (whether or not by virtue of a scheme under paragraph 1 or 2 or pursuant to a direction under paragraph 4), and
 - (b) the person who transferred the land is granted an option to make a re-acquisition of the land (subject to whatever conditions),
- the rule against perpetuities does not apply to the option.
- (2) Sub-paragraph (1) does not apply to an option granted before 26 July 2002.

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Disapplication of other Acts

- 10 (1) Where a lease is granted or transferred to a person for the purposes of an Academy on or after 26 July 2002, section 153 of the Law of Property Act 1925 (enlargement of leases granted for no rent etc) does not apply to permit that person to enlarge the term under the lease.
- (2) The following provisions do not apply to a transfer of land by virtue of this Schedule –
- (a) subsections (2) and (2A) of section 123 of the Local Government Act 1972 (disposals of land by principal councils);
 - (b) section 77(1) of SSFA 1998 (restrictions on disposal of school playing fields);
 - (c) Schedule 22 to that Act (disposals of school land on discontinuance etc).

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Regulations

- 11 (1) The Secretary of State may make regulations containing such incidental, consequential, supplemental and transitional provisions as the Secretary of State thinks are appropriate in consequence of this Schedule or for giving it full effect.
- (2) Regulations under sub-paragraph (1) may in particular include provision –
- (a) requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme under paragraph 1, 2 or 6;
 - (b) requiring the appointed person to identify the land, rights and liabilities to be transferred by or under a scheme under paragraph 1, 2 or 6;

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- (c) requiring a transferor under a scheme under paragraph 1, 2 or 6 to provide the appointed person with such documents as may be required in order to identify the land, rights and liabilities to be transferred by or under the scheme;
- (d) requiring a transferor under a scheme under paragraph 1, 2 or 6 to execute such instruments, deliver such certificates and do any other such things as are required by the Land Registration Act 2002 in order to transfer the land; 5
- (e) treating a transferor under a scheme under paragraph 1, 2 or 6 as having given acknowledgement in writing of the rights to production of documents; 10
- (f) about the production of documents, execution of instruments, delivery of certificates and any other related matters in connection with a transfer under paragraph 5.

Interpretation 15

- 12 (1) A dwelling-house used for occupation by a person employed to work at a school is to be treated for the purposes of this Schedule as used for the purposes of the school.
- (2) In this Schedule –
- (a) the “foundation body”, in relation to a school, has the same meaning as in SSFA 98 (see section 21(4) of that Act); 20
 - (b) the “trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school.
- (3) In this Schedule, “publicly funded land” means – 25
- (a) in relation to land held by a governing body, land falling within any of paragraphs (a) to (i) of paragraph A1(1) of Schedule 22 to SSFA 1998 (disposals of school land on discontinuance etc);
 - (b) in relation to land held by a foundation body, land falling within any of paragraphs (a) to (h) of paragraph A7(1) of that Schedule; 30
 - (c) in relation to land held by trustees, land falling within paragraph (1), (2) or (3) of paragraph A13 of that Schedule.
- (4) References in this Schedule to a transfer of land are to the transfer of a freehold or leasehold interest in the land or to the grant of a lease in respect of the land; and references to a transfer back of land are to the transfer of a freehold or leasehold interest in the land or to the surrender of a lease in respect of the land. 35
- (5) References in this Schedule to a lease include references to a sub-lease.

SCHEDULE 2

Section 14

ACADEMIES: AMENDMENTS

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Education Act 1996 (c. 56)

- 1 EA 1996 is amended as follows.

- 2 In section 337(b) (special schools not maintained by local authorities) after “approved under section 342” insert “or is an Academy”.
- 3 In section 349(1) (variation of trust deeds etc by order) after “imposed by” insert “– (a)” and after “section 342” insert “, or
(b) Academy arrangements.” 5
- 4 In section 482 (Academies) omit subsections (1) to (5).
- 5 Section 483 (financial provisions) is repealed.
- 6 In section 579(1) (general interpretation of Act) before the definition of “assist” insert –
 ““Academy” means a school to which Academy arrangements relate;
 “Academy arrangements” has the meaning given by section 1 of the Academies Act 2010;
 “Academy order” means an order under section 4 of that Act;”.
- 7 In section 580 (index) – 15
 (a) in the entry for “Academy” for “section 482” substitute “section 579(1)”;
 (b) after that entry insert –
 “Academy arrangements | Section 579(1)
 Academy order | Section 579(1)”.
- 8 In Schedule 35A (Academies: land) omit paragraphs 1, 8 to 10 and 11(a) to (e). 20
- School Standards and Framework Act 1998 (c. 31)*
- 9 In section 82(1) of SSFA 1998 (modification of trust deeds etc by order) for “or the Education and Inspections Act 2006” substitute “, the Education and Inspections Act 2006 or the Academies Act 2010”. 25
- Freedom of Information Act 2000 (c. 36)*
- 10 In Part 4 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: maintained schools and other educational institutions) after paragraph 52 insert – 30
 “52A(1) The proprietor of an Academy, in respect of information held for the purposes of the proprietor’s functions under Academy arrangements.
 (2) In sub-paragraph (1) –
 “Academy arrangements” has the meaning given by section 1 of the Academies Act 2010;
 “proprietor” has the meaning given by section 579(1) of the Education Act 1996.” 35

Education Act 2002 (c. 32)

- 11 EA 2002 is amended as follows.
- 12 In section 65 (Academies) omit subsection (2).
- 13 Section 67 (conversion of city academies into Academies) is repealed.
- 14 Section 68 (city colleges) is repealed. 5
- 15 In Schedule 1 (incorporation and powers of governing bodies) in paragraph 5(2)(a) (dissolution of governing body) omit the “or” after sub-paragraph (ii) and after sub-paragraph (iii) insert “, or
(iv) the date on which a local authority are required to cease to maintain the school under section 6(2) of the Academies Act 2010;”. 10

Education Act 2005 (c. 18)

- 16 EA 2005 is amended as follows.
- 17 In section 5 (duty to inspect certain schools at prescribed intervals) in subsection (4) for paragraph (d) (and the “or” after it) substitute – 15
“(d) an Academy in respect of which notice of termination of Academy arrangements has been given, or”.
- 18 In section 110 (supply of information: free school lunches etc) in subsection (7)(c) for “an agreement under section 482 of that Act (Academies, etc)” substitute “Academy arrangements”. 20

Education and Inspections Act 2006 (c. 40)

- 19 EIA 2006 is amended as follows.
- 20 In section 28(3) (exceptions to restriction on discontinuing maintained school) omit the “and” after paragraph (a) and after paragraph (b) insert “, and
(c) section 6(2) of the Academies Act 2010 (requirement to cease to maintain school in respect of which Academy order has effect).” 25
- 21 In section 69 (power of Secretary of State to provide for governing body to consist of interim executive members) after subsection (3) insert – 30
“(4) Subsection (2) does not apply if an Academy order has effect in respect of the school.”
- 22 (1) Schedule 2 (proposals for establishment and discontinuance of schools in England) is amended as follows. 35
- (2) In paragraph 18 (proposals to establish Academy) –
- (a) in sub-paragraph (2) for the words from “an agreement” to the end substitute “Academy arrangements.”;
- (b) in sub-paragraph (5) for “an agreement under section 482 of EA 1996” substitute “Academy arrangements”. 40

- (3) In paragraph 27 (proposals relating to Academy) for “an agreement under section 482 of EA 1996” substitute “Academy arrangements”.

Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)

- 23 ASCLA 2009 is amended as follows.
- 24 In Chapter 4 of Part 3 (the YPLA: Academy arrangements) for “Academy arrangements” wherever occurring (including in the heading to the Chapter) substitute “Academy agency arrangements”. 5
- 25 In section 77 (Academy arrangements) in subsection (4)(a) for “an agreement under section 482(1) of the Education Act 1996” substitute “Academy arrangements”. 10

Children, Schools and Families Act 2010 (c. 26)

- 26 (1) Section 5 of CSFA 2010 (power of governing bodies to form company to establish Academy, etc) is amended as follows.
- (2) In subsection (1)–
- (a) in paragraph (a) for the words from “an agreement” to “an Academy)” substitute “Academy arrangements”; 15
- (b) in paragraph (b) for “an agreement under that section” substitute “Academy arrangements”.
- (3) In subsection (2)(b) for “an agreement under section 482 of EA 1996” substitute “Academy arrangements”. 20

Academies Bill [HL]

A

B I L L

To make provision about Academies.

Brought from the Lords 13 July 2010.

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Bill 57

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