

**2012 No. 979**

**EDUCATION, ENGLAND**

**The Alternative Provision Academies and 16 to 19 Academies  
(Consequential Amendments to Subordinate Legislation)  
(England) Order 2012**

<i>Made</i>	- - - -	<i>29th March 2012</i>
<i>Laid before Parliament</i>		<i>4th April 2012</i>
<i>Coming into force</i>	- -	<i>1st May 2012</i>

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

**Citation, commencement and application**

**1. This Order—**

- (a) may be cited as the Alternative Provision Academies and 16 to 19 Academies (Consequential Amendments to Subordinate Legislation)(England) Order 2012;
- (b) comes into force on 1st May 2012; and
- (c) applies in relation to England only.

**Consequential amendments**

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

29th March 2012

*Jonathan Hill*  
Parliamentary Under Secretary of State  
Department for Education

**SCHEDULE**

Article 2

**Consequential amendments**

**The Local Authorities (Goods and Services)(Public Bodies) Order 1975**

**1.** In the Schedule to the Local Authorities (Goods and Services)(Public Bodies) Order 1975(b), in the part headed “EDUCATIONAL BODIES”—

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(a) 2011 c. 21.

(b) S.I. 1975/193, amended by S.I. 2010/1172; there are other amending instruments but none is relevant.

- (a) in the second entry, after “independent school” insert “, or alternative provision Academy that is not an independent school,”; and
- (b) after that entry insert—

“The proprietor of a 16 to 19 Academy.”.

**The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

**2.** In Part 2 of Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (offices, employments and work)(a), in paragraph 14(b), after “institution” insert “or 16 to 19 Academy”.

**The Taxes (Relief for Gifts)(Designated Educational Establishments) Regulations 1992**

**3.—**(1) The Taxes (Relief for Gifts)(Designated Educational Establishments) Regulations 1992(b) are amended as follows.

(2) In regulation 2—

- (a) in paragraph (1), after the definition of “charity” insert—

““the Education Acts” has the meaning given in section 578 of the Education Act 1996;”;

- (b) in paragraph (2), omit “1944 to 1992”.

(3) In the Schedule—

- (a) in Part 1 (schools: England and Wales), for paragraph 4 substitute—

**“4.**

Any independent school, or any alternative provision Academy that is not an independent school, that—

- (a) is on the register of independent schools in England; and
- (b) is conducted by an educational charity.”; and
- (b) in Part 3 (establishments of further and higher education: England and Wales), after paragraph 5 insert—

**“5A.**

Any 16 to 19 Academy.”.

**The Education (Grammar School Ballots) Regulations 1998**

**4.—**(1) The Education (Grammar School Ballots) Regulations 1998(c) are amended as follows.

(2) In regulation 2(1) (interpretation), in paragraph (c) of the definition of “electoral list” after “independent school” insert “or an alternative provision Academy that is not an independent school”.

(3) In regulation 4(1) (meaning of “eligible parent”)—

- (a) in sub-paragraph (b), for “an independent school situated in the area” substitute—

“a school situated in the area where the school is—

- (i) an independent school, or

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(a) S.I. 1975/1023, amended by S.I. 2001/1192 which substituted paragraph 14 of Part 2 of Schedule 1 in relation to England and Wales. There are other amending instruments but none is relevant.  
 (b) S.I. 1992/42, amended by S.I. 1993/561; there are other amending instruments but none is relevant.  
 (c) S.I. 1998/2876, amended by S.I. 2010/1172; there are other amending instruments but none is relevant.

- (ii) an alternative provision Academy that is not an independent school”; and
  - (b) in sub-paragraph (c)(i), for “or an independent school” substitute “, an independent school or an alternative provision Academy that is not an independent school”.
- (4) In regulation 20(3)(c) (information to be given to parents), after “school” insert “or at an alternative provision Academy that is not an independent school”.
- (5) In regulation 21 (application of section 497 of the Education Act 1996), after “schools” insert “and alternative provision Academies that are not independent schools”.

#### **The National Minimum Wage Regulations 1999**

5. Regulation 31(6) of the National Minimum Wage Regulations 1999 (reductions from payments to be taken into account)(a) is amended as follows—

- (a) for the first reference to “or Further Education Institution” substitute “, Further Education Institution or a 16 to 19 Academy”;
- (b) at the end, insert “or on a full-time course provided by a 16 to 19 Academy”.

#### **The Immigration and Asylum Act 1999 (Part V Exemption: Educational Institutions and Health Sector Bodies) Order 2001**

6. In Schedule 2 to the Immigration and Asylum Act 1999 (Part V Exemption: Educational Institutions and Health Sector Bodies) Order 2001 (educational institutions)(b), after paragraph (1)(b) insert—

“(ba) a 16 to 19 Academy.”.

#### **The Higher Education Funding Council for England (Supplementary Functions) Order 2001**

7. In article 2 of the Higher Education Funding Council for England (Supplementary Functions) Order 2001 (additional function)(c), at the end insert “or to proprietors of 16 to 19 Academies”.

#### **The Education (Grant)(Financial Support for Students) Regulations 2001**

8. In regulation 2 of the Education (Grant)(Financial Support for Students) Regulations 2001 (interpretation)(d), in the definition of “relevant institution”, at the end insert “or a 16 to 19 Academy”.

#### **The Education (Special Educational Needs)(England)(Consolidation) Regulations 2001**

9.—(1) Part A of Schedule 1 to the Education (Special Educational Needs)(England)(Consolidation) Regulations 2001(e) is amended as follows.

- (2) In the paragraph beginning “If you think that”—
  - (a) for “or an independent school” substitute “, an independent school or an alternative provision Academy that is not an independent school”; and
  - (b) after the second occurrence of “independent school” insert “and alternative provision Academies”.
- (3) In the paragraph beginning “Such lists of independent”, after “independent” insert “schools, alternative provision Academies”.

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(a) S.I. 1999/584, amended by S.I. 2011/2347; there are other amending instruments but none is relevant. Regulation 31(6) was inserted by S.I. 2011/2347.

(b) S.I. 2001/1403, to which there are amendments not relevant to this instrument.

(c) S.I. 2001/2891.

(d) S.I. 2001/2894.

(e) S.I. 2001/3455. Part A of Schedule 1 was substituted by S.I. 2006/3346; there are other amending instruments but none is relevant.

### **The Children’s Homes Regulations 2001**

- 10.**—(1) The Children’s Homes Regulations 2001(a) are amended as follows.
- (2) In regulation 3(1) (excepted establishments), after sub-paragraph (a) insert—  
“(aa) any 16 to 19 Academy;”.
- (3) For regulation 18(4) (education, employment and leisure activity), substitute—  
“(4) In this regulation, “college” means—  
(a) an institution within the further education sector as defined in section 91 of the Further and Higher Education Act 1992; or  
(b) a 16 to 19 Academy.”.

### **The Police Act 1997 (Criminal Records) Regulations 2002**

- 11.**—(1) The Police Act 1997 (Criminal Records) Regulations 2002(b) are amended as follows.
- (2) In regulation 5A(za) (enhanced criminal record certificates: prescribed purposes), after “2002” insert “or 16 to 19 Academy”.
- (3) In regulation 12(1) (exception to unlawful disclosure provisions)—  
(a) at the end of sub-paragraph (a) omit “or” and insert—  
“ (aa) by an alternative provision Academy that does not fall within sub-paragraph (a),”  
;  
(b) after sub-paragraph (b) insert—  
“or  
(c) by a 16 to 19 Academy;” and  
(c) at the end insert “or Academy”.

### **The Education (Teacher Student Loans)(Repayment etc.) Regulations 2002**

- 12.** In regulation 4(1)(a) of the Education (Teacher Student Loans)(Repayment etc.) Regulations 2002 (eligible employment)(c), after paragraph (i) insert—  
“(ia) a 16 to 19 Academy;”.

### **The School Companies Regulations 2002**

- 13.** In regulation 5(2) of the School Companies Regulations 2002 (persons who may be admitted to membership of school companies)(d)—  
(a) after paragraph (c) insert—  
“(ca) the proprietor of an alternative provision Academy that is not an independent school;” and  
(b) after paragraph (e) insert—  
“(ea) the proprietor of a 16 to 19 Academy;”.

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(a) S.I. 2001/3967, amended by S.I. 2011/583 which inserted regulation 18(4). There are other amending instruments but none is relevant.

(b) S.I. 2002/233; relevant amending instruments are S.I. 2006/748 (which inserted regulation 5A), 2006/2181 (which inserted regulation 12), 2010/817 (which inserted paragraph (za) in regulation 5A).

(c) S.I. 2002/2086, to which there are amendments not relevant to this instrument.

(d) S.I. 2002/2978, to which there are amendments not relevant to this instrument.

### **The School Companies Regulations (Private Finance Initiative Companies) Regulations 2002**

14. In regulation 5(2) of the School Companies Regulations (Private Finance Initiative Companies) Regulations 2002 (persons who may be admitted to membership of a school PFI company)(a), after paragraph (e) insert—

- “(ea) the proprietor of a 16 to 19 Academy;
- (eb) the proprietor of an alternative provision Academy that is not an independent school;”.

### **The Education (Governors’ Allowances)(England) Regulations 2003**

15. In regulation 5(1)(c) of the Education (Governors’ Allowances)(England) Regulations 2003 (schools without delegated budgets and other institutions)(b), after “independent school” insert “, alternative provision Academy that is not an independent school”.

### **The Education (Teacher Student Loans)(Repayment etc.) Regulations 2003**

16. Regulation 4 of the Education (Teacher Student Loans)(Repayment etc.) Regulations 2003(c) (eligible employment) is amended as follows—

- (a) in paragraph (1)(a)(ii), at the end insert “or at a 16 to 19 Academy”;
- (b) in paragraph (5)(b), after “sector” insert “or at a 16 to 19 Academy”.

### **The Crime and Disorder Strategies (Prescribed Descriptions)(England) Order 2004**

17. In article 2(2) of the Crime and Disorder Strategies (Prescribed Descriptions)(England) Order 2004(d), after paragraph (d) insert—

- “(da) the proprietor of an alternative provision Academy that is not an independent school;
- (db) the proprietor of a 16 to 19 Academy;”.

### **The Education (Pupil Information)(England) Regulations 2005**

18.—(1) The Education (Pupil Information)(England) Regulations 2005(e) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “responsible person”—

- (a) in paragraph (a), at the end insert “or of an alternative provision Academy that is not an independent school”; and
- (b) in paragraph (c), for “further education institution or” substitute “16 to 19 Academy, further education institution;”.

(3) In regulation 5(5) (disclosure of curricular and educational records), before “further education institution” insert “16 to 19 Academy;”.

### **The Further Education (Providers of Education)(England) Regulations 2006**

19.—(1) The Further Education (Providers of Education)(England) Regulations 2006(f) are amended as follows.

(2) In regulation 9 (new members of staff)—

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- (a) S.I. 2002/3177, to which there are amendments not relevant to this instrument.
  - (b) S.I. 2003/523, amended by S.I. 2010/1172; there are other amending instruments but none is relevant.
  - (c) S.I. 2003/1917, amended by S.I. 2010/1172; there are other amending instruments but none is relevant.
  - (d) S.I. 2004/118, amended by S.I. 2004/696, 2007/1840, 2010/671, 2010/1172; there are other amending instruments but none is relevant.
  - (e) S.I. 2005/1437, amended by S.I. 2008/1747; there are other amending instruments but none is relevant.
  - (f) S.I. 2006/3199, to which there are amendments not relevant to this instrument.

- (a) in paragraph (1)(b), after “England” insert “, or in a 16 to 19 Academy,”; and
- (b) in paragraph (2), after “institution” insert “or 16 to 19 Academy”.
- (3) In regulation 19(2)(a)(ii) (supply staff), after “England” insert “, or in a 16 to 19 Academy,”.

#### **The Childcare Act 2006 (Childcare Assessments) Regulations 2007**

20. In regulation 2(d) of the Childcare Act 2006 (Childcare Assessments) Regulations 2007 (consultation)(a), after sub-paragraph (v) insert—

“(va) proprietors of 16 to 19 Academies,”.

#### **The Education (Information About Children in Alternative Provision)(England) Regulations 2007**

21.—(1) The Education (Information About Children in Alternative Provision)(England) Regulations 2007(b) are amended as follows.

(2) In regulation 3(b) (application), after “an independent school” insert “or at an alternative provision Academy that is not an independent school, where the education is”.

(3) In regulation 6(k)(ii) (individual information), at the end insert “or in an alternative provision Academy that is not an independent school”.

#### **The Childcare (Inspections) Regulations 2008**

22. In regulation 5 (the title to which becomes “Arrangements for inspection of independent schools and alternative provision Academies that are not independent schools”) of the Childcare (Inspections) Regulations 2008(c), in paragraph (1), after “school” insert “or alternative provision Academy that is not an independent school”.

#### **The National Child Measurement Programme Regulations 2008**

23. In regulation 2(1) of the National Child Measurement Programme Regulations 2008 (gathering and further processing height and weight information)(d), for “and proprietors of independent schools” substitute “, the proprietors of independent schools and the proprietors of alternative provision Academies that are not independent schools”.

#### **The School Information (England) Regulations 2008**

24.—(1) The School Information (England) Regulations 2008(e) are amended as follows.

(2) In regulation 5(1) (local authority to publish composite prospectus), for “Academies” substitute “Academy schools”.

(3) In regulations 6(1)(b)(ii) (manner of publication) and 9(1)(b)(ii) (manner of publication), after “Academy” insert “school”.

(4) In Part 2 of Schedule 3 (information to be published by local authorities)—

(a) in paragraph 13, for “and independent schools” substitute “schools, independent schools and alternative provision Academies that are not independent schools”; and

(b) in paragraph 15, for “and independent schools” substitute “, independent schools and alternative provision Academies that are not independent schools”.

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(a) S.I. 2007/463, to which there are amendments not relevant to this instrument.  
 (b) S.I. 2007/1065, to which there are amendments not relevant to this instrument.  
 (c) S.I. 2008/1729, to which there are amendments not relevant to this instrument.  
 (d) S.I. 2008/3080, amended by S.I. 2010/1172; there are other amending instruments but none is relevant.  
 (e) S.I. 2008/3093, to which there are amendments not relevant to this instrument.

### **The Education (Individual Pupil Information)(Prescribed Persons)(England) Regulations 2009**

**25.**—(1) The Education (Individual Pupil Information)(Prescribed Persons)(England) Regulations 2009(a) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “work-based learning provider”, after “school” insert “, 16 to 19 Academy”.

(3) In regulation 3(6)(a) (prescribed persons), at the end insert “or 16 to 19 Academies”.

### **The School Staffing (England) Regulations 2009**

**26.**—(1) The School Staffing (England) Regulations 2009(b) are amended as follows.

(2) In regulations 12(6)(b) (manner of appointment), 18(3)(b) (supply staff), 24(6)(b) (manner of appointment) and 30(3)(b) (supply staff), after “England” insert “, or in a 16 to 19 Academy,”.

### **The Health and Social Care Act 2008 (Regulated Activities) Regulations 2010**

**27.** In Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 (regulated activities)(c), in paragraph 2(2)(c) (accommodation for persons who require nursing or personal care), at the end insert “or in a 16 to 19 Academy”.

### **The Teachers’ Pensions Regulations 2010**

**28.**—(1) Schedule 2 to the Teachers’ Pensions Regulations 2010 (pensionable employment)(d) is amended as follows.

(2) In Part 1 (employments pensionable without election)—

(a) in paragraph 2(a), after “Academy” insert “school, alternative provision Academy,”; and

(b) at the end of paragraph 2(a), omit “or” and insert—

“(aa) in a 16 to 19 Academy by the proprietor of the Academy, or”.

### **The Education (Independent School Standards)(England) Regulations 2010**

**29.**—(1) The Education (Independent School Standards)(England) Regulations 2010(e) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “school”, at the end insert “or an alternative provision Academy that is not an independent school”.

(3) In regulation 3(2) (independent school standards), omit “independent”.

(4) In Part 4 of Schedule 1, in paragraphs 20(1) and 21(1), for “an independent school” substitute “the school”.

### **The Care Leavers (England) Regulations 2010**

**30.** In regulation 5(4)(b)(iv) of the Care Leavers (England) Regulations 2010 (assessment of needs)(f), after “school” insert “, 16 to 19 Academy”.

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(a) S.I. 2009/1563, to which there are amendments not relevant to this instrument.  
(b) S.I. 2009/2680, to which there are amendments not relevant to this instrument.  
(c) S.I. 2010/781, to which there are amendments not relevant to this instrument.  
(d) S.I. 2010/990, to which there are amendments not relevant to this instrument.  
(e) S.I. 2010/1997.  
(f) S.I. 2010/2571.

## **The Education (Independent Educational Provision in England)(Provision of Information) Regulations 2010**

**31.**—(1) The Education (Independent Educational Provision in England)(Provision of Information) Regulations 2010(a) are amended as follows.

(2) In regulation 1(2) (citation, commencement and application), after “independent schools” insert “and alternative provision Academies that are not independent educational institutions”.

(3) In regulation 2 (interpretation)—

(a) in the definition of “application”, omit the words from “for” to the end; and

(b) in the definition of “school”, at the end insert “or an alternative provision Academy that is not an independent educational institution”.

(4) In regulation 3, in the title, omit “of an independent school”.

(5) In Part 2 of the Schedule, in paragraph 3(1), after “independent school” insert “or an alternative provision Academy that is not an independent educational institution”.

## **The Education (Non-Maintained Special Schools)(England) Regulations 2011**

**32.**—(1) Part 1 of the Schedule to the Education (Non-Maintained Special Schools)(England) Regulations 2011 (conditions of approval under section 342 of the 1996 Act)(b) is amended as follows.

(2) In paragraphs 4(6)(c) (suitability of staff) and 5(4)(c) (supply staff), after “England” insert “, or in a 16 to 19 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 (c. 21) (“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.

Section 4(1B) of the Education Act 1996 (c. 56) (inserted by Schedule 13 to the 2011 Act) provides that a 16 to 19 Academy is not a school. Neither is it an institution within the further education sector under the Education Acts. The Schedule makes amendments to existing legislation to ensure that it applies correctly, or does not apply, to 16 to 19 Academies.

Section 4(1C) of the Education Act 1996 (inserted by Schedule 13 to the 2011 Act) provides that an alternative provision Academy is a school. However, an alternative provision Academy may be full-time or part-time and will not always meet the definition of “independent school” in section 463 of the Education Act 1996. The Schedule makes amendments to existing legislation to ensure that it applies correctly, or does not apply, to alternative provision Academies.

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(a) S.I. 2010/2919. These Regulations are made under section 98(2)(a) of the Education and Skills Act 2008 (the 2008 Act); they make provision in relation to the register of independent educational institutions referred to in section 95(1) of the 2008 Act. Until section 95(1) comes into force for all purposes, section 98 has effect as if any reference to the proprietor of an independent educational institution is a reference to the proprietor of an independent school, and any reference to the register is a reference to the register in section 158(1)(a) of the Education Act 2002. See the transitory provisions of S.I. 2010/2906. Chapter 1 of Part 4 of the 2008 Act (which includes section 98) applies to alternative provision Academies that are not independent educational institutions as it applies to independent educational institutions. See section 93A of the 2008 Act, inserted by S.I. 2012/976. By virtue of the transitional provision of S.I. 2012/976, the references in section 93A to independent educational institutions are to be read as references to independent schools.

(b) S.I. 2011/1627.



An impact assessment has not been produced for this instrument as it has no impact on business, the public sector or civil society organisations. The impact assessment for the 2011 Act is available at [www.education.gov.uk](http://www.education.gov.uk).

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STATUTORY INSTRUMENTS

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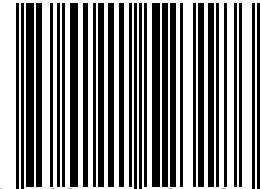
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