Draft Regulations laid before Parliament under section 73(4) of the Children's Wellbeing and Schools Act 2026 (c. 21), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No. ****

EDUCATION, ENGLAND

The Children's Wellbeing and Schools Act 2026 (Establishment of Schools) (Consequential Amendments) Regulations 2026

Made - - - - ***

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 73(1), (2) and (5) of the Children's Wellbeing and Schools Act 2026(**a**).

In accordance with section 73(4) of that Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Children's Wellbeing and Schools Act 2026 (Establishment of Schools) (Consequential Amendments) Regulations 2026.

(2) These Regulations come into force on 1st September 2026, subject to paragraph (3).

(3) Regulation 4 comes into force at the same time as section 7 of the Children, Schools and Families Act 2010 (power to propose new schools)(**b**).

(4) These Regulations extend to England and Wales.

Amendment of section 529 of the Education Act 1996

2. In section 529(1A) of the Education Act 1996 (power to accept gifts on trust for educational purposes)(**c**), for "sections 7, 10 and 11" substitute "sections 7 and 10".

(**a**) 2026 c. 21.
(**b**) 2010 c. 26.
(**c**) 1996 c. 56. Section 529(1A) was inserted by paragraph 10(2) of Schedule 3 to the Education and Inspections Act 2006 (c. 40) and amended by S.I. 2010/1158.

Amendment of section 129 of the Education Act 2002

3.—(1) Section 129 of the Education Act 2002 (transfer of employment)(**a**) is amended as follows.

(2) In subsection (5)—

(a) at the end of paragraph (e), omit "or";

(b) at the end of paragraph (f), insert ", or

(g) a pupil referral unit.".

(3) In subsection (6)(a), for "section 7 or 11" substitute "section 7 or 10".

Amendment of section 11A of the Education and Inspections Act 2006

4. In section 11A(1) of the Education and Inspections Act 2006 (restriction on power of governing body to make proposals)(**b**) (as inserted by section 7 of the Children, Schools and Families Act 2010), for "section 11(2)" substitute "section 10 by virtue of subsection (2B) of that section".

Amendment of regulation 5 of the School Governance (New Schools) (England) Regulations 2007

5. In regulation 5 of the School Governance (New Schools) (England) Regulations 2007 (arrangements made in anticipation of approval of proposals)(**c**)—

(a) in paragraph (1), for "section 7, 10 or 11" substitute "section 7 or 10";

(b) in paragraph (4)—

(i) for "two or more sets of proposals" substitute "a proposal";

(ii) for "have" substitute "has";

(iii) after "published," insert "and at least one other proposal for the establishment of a maintained school, an Academy or a pupil referral unit has been published,".

Amendment of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007

6. After paragraph 27 of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (**d**), insert—

"School Governance (New Schools) (England) Regulations 2007

27A.—(1) Regulation 5(1) of the School Governance (New Schools) (England) Regulations 2007 applies in relation to units as it applies to maintained schools.

(2) Regulation 5(4) of those Regulations applies in relation to units as if for "maintained school", the first time it occurs, there were substituted "pupil referral unit".".

(**a**) 2002 c. 32. Section 129 was amended by paragraph 47(2) and (3) of Schedule 3 to the Education and Inspections Act 2006 (c. 40). There are other amendments but none are relevant.
(**b**) 2006 c. 40.
(**c**) S.I. 2007/958, amended by S.I. 2010/1172.
(**d**) S.I. 2007/2979.

Amendment of regulation 3 of the Local Government (Structural Changes) (Further Transitional and Supplementary Provision and Miscellaneous Amendments) Regulations 2009

7. In regulation 3(1) of the Local Government (Structural Changes) (Further Transitional and Supplementary Provision and Miscellaneous Amendments) Regulations 2009 (functions relating to the reorganisation of schools)(**a**)—

(a) omit "section 6A (requirement to seek proposals for establishment of new Academies)"(**b**);

(b) for "section 10 (publication of proposals with consent of Secretary of State)" substitute "section 10 (proposals other than proposals pursuant to a section 7 notice: publication etc)";

(c) omit "section 11 (publication of proposals to establish maintained schools: special cases)".

Transitional provision

8.—(1) The amendments made by regulations 5, 6 and 7(b) and (c) do not apply in relation to those cases where, before those provisions come into force, proposals have been published under section 11 of the Education and Inspections Act 2006 ("the Act")(**c**) but a final determination of the proposals has not been made.

(2) The amendment made by regulation 7(a) does not apply in relation to cases where, before that provision comes into force, a local authority in England has—

(a) sought proposals for the establishment of an Academy under section 6A(1) of the Act, and

(b) specified a date for the proposals to be submitted under subsection (2) of that section,

but a final determination of the proposals has not been made.

Name
Minister of State
Department for Education

Date

(**a**) S.I. 2009/276, amended by S.I. 2010/1172 and S.I. 2018/930. There are other amending instruments but none are relevant.
(**b**) Section 6A was inserted by paragraph 2 of Schedule 11 to the Education Act 2011 (c. 21).
(**c**) Section 11 was amended by paragraph 1 of Schedule 16 to the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), paragraph 14(2) of Schedule 2 to the Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), paragraph 7 of Schedule 11 to the Education Act 2011 (c. 21) and paragraph 38(2) and (3) of Schedule 1 to the Education and Skills Act 2008 (c. 25).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential amendments in connection with sections 65 to 69 of the Children's Wellbeing and Schools Act 2026 (c. 21). Those sections make amendments to the Education and Inspections Act 2006 (c. 40) relating to the establishment of schools.

Regulation 8 contains transitional provisions which set out the circumstances in which the consequential amendments will not have effect.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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