



School Standards and Framework Act 1998

1998 CHAPTER 31

PART II

NEW FRAMEWORK FOR MAINTAINED SCHOOLS

CHAPTER VII

MISCELLANEOUS AND SUPPLEMENTAL

Transfers of staff and land

73 Transfer of staff on appointed day

- (1) Subsections (5) to (7) below (“the staff transfer provisions”) apply where on the appointed day—
 - (a) a special agreement school becomes a voluntary aided school, or
 - (b) a grant-maintained school becomes a community or voluntary controlled school, or
 - (c) a grant-maintained special school becomes a community special school,in accordance with Schedule 2.
- (2) Subject to subsection (3), the staff transfer provisions apply in the circumstances mentioned in subsection (1) to any person who immediately before the appointed day—
 - (a) is employed by the local education authority to work solely at an existing school within subsection (1)(a), or
 - (b) is employed by the local education authority to work at such an existing school and is designated for the purposes of this subsection by an order made by the Secretary of State, or

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- (c) is employed by the governing body of an existing school within subsection (1)(b) or (c).
- (3) The staff transfer provisions do not apply—
- (a) to any person employed as mentioned in subsection (2) whose contract of employment terminates on the day immediately preceding the appointed day; or
 - (b) to any person employed as mentioned in subsection (2)(a) or (b) who before that day—
 - (i) has been appointed or assigned by the local education authority to work solely at another school as from that day, or
 - (ii) has been withdrawn from work at the school with effect from that day.
- (4) A person who before the appointed day has been appointed or assigned by—
- (a) the local education authority, or
 - (b) the governing body of an existing school within subsection (1)(b) or (c),
- to work at a school, or (as the case may be) at the existing school, as from that day shall be treated for the purposes of this section as if he had been employed by the authority or governing body immediately before that day to do such work at the school as he would have been required to do on or after that day under his contract of employment with the authority or that body.
- (5) The contract of employment between a person to whom the staff transfer provisions apply and his former employer shall have effect from the appointed day as if originally made between him and his new employer.
- (6) Without prejudice to subsection (5)—
- (a) all the former employer’s rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this section be transferred to the new employer on the appointed day, and
 - (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the new employer.
- (7) Subsections (5) and (6) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.
- (8) In this section—
- “existing school” means a school which becomes a school of a different category on the appointed day as mentioned in subsection (1), and “new school” means the school of a different category which an existing school then becomes;
- “the former employer” and “the new employer”—
- (a) where the staff transfer provisions apply by virtue of subsection (2)(a) or (b), means the local education authority and the governing body of the new school respectively, and
 - (b) where the staff transfer provisions apply by virtue of subsection (2)(c), means the governing body of the existing school and the local education authority respectively;

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and references to a special agreement, grant-maintained or grant-maintained special school are references to such a school within the meaning of the Education Act 1996.

- (9) A person employed by a local education authority in connection with the provision of meals shall not be regarded for the purposes of subsection (2)(a) as employed to work solely at a school unless the meals are provided solely for consumption by persons at the school.
- (10) An order under this section may designate a person either individually or as a member of a class or description of employees.

74 Transfer of land on appointed day

Schedule 21 (which makes provision for transfers of land and certain rights and liabilities on the appointed day in respect of schools which become community, foundation, voluntary or community special schools on that day) shall have effect.

75 Transfer of land by governing body to trustees

- (1) Where a building is to be provided for a foundation or voluntary school and the building—
- (a) is to form part of the school premises, and
 - (b) is to be constructed partly on land held by the governing body and partly on land held on trust for the purposes of the school by persons other than the governing body,
- the governing body shall transfer to those persons the land held by the governing body on which the building is to be constructed.
- (2) Paragraph 1 of Schedule 22 does not apply to any transfer required by subsection (1).