

Changes to legislation: School Standards and Framework Act 1998, Paragraph A23 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 22

DISPOSALS OF LAND IN CASE OF CERTAIN SCHOOLS AND DISPOSALS ON DISCONTINUANCE

Modifications etc. (not altering text)

- C1** Sch. 22 excluded (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), Sch. 1 para. 10(2)(c); S.I. 2010/1937, art. 2, Sch. 1

[^{F1}PART A1

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS IN ENGLAND: DISPOSALS OF LAND

Textual Amendments

- F1** Sch. 22 Pt. A1 inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 2; S.I. 2007/935, art. 7(p)

Land required by [^{F2}local authority] for certain purposes

- A23 (1) A [^{F2}local authority] in England may apply to the adjudicator for a transfer order under this paragraph in relation to publicly funded land which—
- (a) is held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school,
 - (b) is held by a foundation body for the purposes of the group of schools for which it acts, or
 - (c) is held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school.
- (2) A transfer order is an order requiring the land in relation to which it is made to be transferred by the body or trustees holding it to the authority, subject to the payment by the authority of such sum by way of consideration (if any) as the adjudicator determines to be appropriate.
- (3) In determining whether to make an application under sub-paragraph (1) for a transfer order, a [^{F2}local authority] must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- [^{F3}(4) Before making an application under sub-paragraph (1) for a transfer order in relation to publicly funded land, the authority must give notice of their intention to make the application to—
- (a) the body or trustees holding the land, and

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- (b) the Secretary of State.]
- (5) An application under sub-paragraph (1) must state the purpose for which the land to which it relates is required by the authority (“the stated purpose”).
- (6) In relation to the content of [^{F4}an application under sub-paragraph (1) or a notice under sub-paragraph (4)], a [^{F2}local authority] must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- [On receipt of a notice under sub-paragraph (4)(b), the Secretary of State must—
- ^{F5}(6A) (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
- (b) notify the local authority of that decision.
- (6B) If the Secretary of State decides to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 in respect of the land, the local authority may not make an application under sub-paragraph (1) for a transfer order in relation to the land.]
- (7) Where an application is made under sub-paragraph (1) for a transfer order in relation to publicly funded land, the adjudicator may make a transfer order if he is satisfied that—
- (a) the land is not required for the purposes of the school or, as the case may be, the schools in the group,
- (b) the land is required by the authority for the stated purpose,
- (c) the stated purpose is a qualifying purpose, and
- (d) it is appropriate for the land to be used for that purpose.
- (8) For the purposes of sub-paragraph (7)(c) the stated purpose is a qualifying purpose if it falls within one or more of the following descriptions of purpose—
- (a) the land is required for the purposes of any school or institution which is, or is to be, maintained by the authority, or which they have power to assist;
- (b) the land is otherwise required for the purposes of the exercise of any of the [^{F6}education] functions of the authority;
- (c) the land is required for the provision of children’s services by or on behalf of the [^{F7}authority in the exercise of any of their relevant functions].
- (9) For the purposes of sub-paragraph (8)(c)—
- “children’s services” are services provided for or in relation to any of the following persons (whether or not they are also provided for or in relation to any other persons)—
- (a) children;
- (b) persons aged 18 or 19;
- (c) persons over the age of 19 who are receiving services under sections 23C to 24D of the Children Act 1989;
- (d) persons over the age of 19 but under the age of 25 who have a learning difficulty [^{F8}or disability], within the meaning of [^{F9}section 15ZA(6) and (7) of the Education Act 1996], and are receiving services under [^{F10}section 15ZA of the Education Act 1996 or section ^{F11}... 86 or 87 of the Apprenticeships, Skills, Children and Learning Act 2009];
- “relevant functions” means the functions described in any of paragraphs (a), (c), (d) or (e) of subsection (1) of section 135 of the Education and Inspections Act 2006.

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- (10) Before making a transfer order the adjudicator must consult the body or trustees holding the land in relation to which the application for the transfer order is made.
- (11) In determining whether to make a transfer order, the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (12) Where a transfer order is made, the authority must use the land to which it relates for the stated purpose.
- (13) A transfer order made by the adjudicator may be varied or revoked by a further order made by the adjudicator if—
- (a) an application for its variation or revocation is made to him by a relevant person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (14) A “relevant person” in relation to a transfer order means—
- (a) the [F2]local authority] who applied for the transfer order, or
 - (b) the body or trustees who held the land to which the order relates.
- (15) In determining whether to make an application to the adjudicator under sub-paragraph (13)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (16) Sub-paragraph (11) applies in relation to the making of a further order by virtue of sub-paragraph (13) as it applies in relation to the making of the original transfer order.]

Textual Amendments

- F2** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F3** Sch. 22 para. A23(4) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F4** Words in Sch. 22 para. A23(6) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(3)**; S.I. 2012/84, art. 3 (with art. 5)
- F5** Sch. 22 para. A23(6A)(6B) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(4)**; S.I. 2012/84, art. 3 (with art. 5)
- F6** Words in Sch. 22 para. A23(8) inserted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(e)(i)**
- F7** Words in Sch. 22 para. A23(8) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(e)(ii)**
- F8** Words in Sch. 22 Pt. A1 para. A23(9) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 70(a)**; S.I. 2014/889, art. 7(a)
- F9** Words in Sch. 22 para. A23(9) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 37(a)** (with art. 2(3))
- F10** Words in Sch. 22 para. A23(9) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 37(b)** (with art. 2(3))

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F11 Word in Sch. 22 Pt. A1 para. A23(9) omitted (1.9.2014) by virtue of [Children and Families Act 2014](#) (c. 6), s. 139(6), [Sch. 3 para. 70\(b\)](#); S.I. 2014/889, art. 7(a)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(3)(aa) inserted by [2011 nawm 7 s. 16\(2\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- s. 18B inserted by [2011 nawm 7 s. 16\(3\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- Sch. 22 para. 5(1B) inserted by [2023 c. 55 s. 235\(4\)](#)