

Changes to legislation: Education Reform Act 1988, Paragraph 9 is up to date with all changes known to be in force on or before 26 June 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 10

SUPPLEMENTARY PROVISIONS WITH RESPECT TO TRANSFERS

Modifications etc. (not altering text)

- C1** Sch. 10: functions conferred by [The Education \(Inner London Education Authority\) \(Transfer of Functions\) Order 1991 \(S.I.1991/1457\)](#), **arts. 2(b), 3**
Sch. 10 applied (with modifications) (1.4.1999 in relation to s. 74 of the amending Act and 1.9.1999 in relation to Sch. 21 of the amending Act) by [School Standards and Framework Act 1998 \(c. 31\)](#), s. 74, **Sch. 21 Pt. I para. 2(3)** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**, s. 74; S.I. 1999/2323, art. 2(1), **Sch.**
Power to amend conferred (1.2.1999) by [School Standards and Framework Act 1998 \(c. 31\)](#), s. 137(4) **(a)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).
Sch. 10 applied (with modifications) (1.1.2001) by [The Education \(New Procedures for Property Transfers\) Regulations 2000 \(S.I. 2000/3209\)](#), regs. 5, 6, 7, **Sch. 1**
Sch. 10 modified (E.) (1.1.2001) by [The Education \(New Procedures for Property Transfers\) Regulations 2000 \(S.I. 2000/3209\)](#), **regs. 15, 17**, (with regs. 18, 19)
Sch. 10 modified (W.) (1.9.2001) by [The Change of Category of Maintained Schools \(Wales\) Regulations 2001 \(S.I. 2001/2678\)](#), reg. 16, **Sch. 4 para. 2**
- C1** Sch. 10 applied (E.) (25.5.2007) by [The School Governance \(Federations\) \(England\) Regulations 2007 \(S.I. 2007/960\)](#), regs. 1(1), **41(2)**, 46(2)
- C1** Sch. 10 applied (W.) (12.4.2010) by [The Federation of Maintained Schools and Miscellaneous Amendments \(Wales\) Regulations 2010 \(S.I. 2010/638\)](#), regs. 1(1), **80(2)**, 86(2)
- C1** Sch. 10 applied (1.9.2012) by [The School Governance \(Federations\) \(England\) Regulations 2012 \(S.I. 2012/1035\)](#), regs. 1, **13(2)**, 33(2), 39(2) (with reg. 2)
- C1** Sch. 10 modified (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 4 para. 9**; S.I. 2013/1800, art. 3(h)
- C1** Sch. 10 applied (22.5.2014) by [The Federation of Maintained Schools \(Wales\) Regulations 2014 \(S.I. 2014/1132\)](#), regs. 1(1), **84(2)**, 91(2)

Third parties affected by vesting provisions

- 9 (1) Without prejudice to the generality of paragraphs 6 to 8 above, any transaction effected between a transferor and a transferee in pursuance of paragraph 2(1) or of a direction under paragraph 3 above shall be binding on all other persons, and notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any person other than the transferor and the transferee.
- (2) If as a result of any such transaction any person's rights or liabilities become enforceable as to part by or against the transferor and as to part by or against the transferee, the ^{F1}the Education Transfer Council] shall give that person written notification of that fact.

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- (3) If in consequence of a transfer to which this Schedule applies or of anything done in pursuance of the provisions of this Schedule—
- (a) the rights or liabilities of any person other than the transferor or the transferee which were enforceable against or by the transferor become enforceable as to part against or by the transferor and as to part against or by the transferee; and
 - (b) the value of any property or interest of that person is thereby diminished;
- such compensation as may be just shall be paid to that person by the transferor, the transferee or both.
- (4) Any dispute as to whether and if so how much compensation is payable under sub-paragraph (3) above, or as to the person to whom it shall be paid, shall be referred to and determined by an arbitrator appointed by the Lord Chancellor.
- (5) Where the transferor or the transferee under a transfer to which this Schedule applies purports by any conveyance or transfer to transfer to some person other than the transferor or the transferee for consideration any land or other property which before the transfer date belonged to the transferor, or which is an interest in property which before that date belonged to the transferor, the conveyance or transfer shall be as effective as if both the transferor and the transferee had been parties to it and had thereby conveyed or transferred all their interest in the property conveyed or transferred.
- (6) A court shall have the power set out in sub-paragraph (7) below if at any stage in proceedings before it to which the transferor or transferee under a transfer to which this Schedule applies and a person other than the transferor or the transferee are parties it appears to it that the issues in the proceedings—
- (a) depend on the identification or definition of any of the property, rights or liabilities transferred which the transferor and [^{F1}the Education Transfer Council][^{F2}or (as the case may be) the transferee] have not yet effected; or
 - (b) raise a question of construction on the relevant provisions of this Act [^{F3}or of the School Standards and Framework Act 1998] which would not arise if the transferor and the transferee constituted a single person.
- (7) In any such case the court may, if it thinks fit on the application of a party to the proceedings other than the transferor or the transferee, hear and determine the proceedings on the footing that such one of the transferor and the transferee as is a party to the proceedings represents and is answerable for the other of them, and that the transferor and the transferee constitute a single person.
- (8) Any judgment or order given by a court in proceedings determined on that footing shall bind both the transferor and the transferee accordingly.
- (9) It shall be the duty of the transferor and of [^{F1}the Education Transfer Council][^{F4}or (as the case may be) the transferee] to keep one another informed of any case where the transferor or the transferee under a transfer to which this Schedule applies may be prejudiced by sub-paragraph (5) above or any judgment or order given by virtue of sub-paragraph (8) above.
- (10) If either the transferor or the transferee claims that he has been so prejudiced and that the other of them ought to indemnify or make a payment to him on that account and has unreasonably failed to meet that claim, he may refer the matter to the Secretary of State for determination by the Secretary of State.

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Textual Amendments

- F1** Words in Sch. 10 para. 9(2)(6)(a)(9) substituted (1.2.1999) by 1998 c. 31, s. 137, **Sch. 29 para.10** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).
- F2** Words in Sch. 10 para. 9(6)(a) inserted (1.2.1999) by 1998 c. 31, s. 137, **Sch. 29 para. 8(a)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).
- F3** Words in Sch. 10 para. 9(6)(b) inserted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 144(d); S.I. 1993/3106, art. 4, **Sch. 1** (with art. 5, Sch. 2) (amended by S.I. 1994/436, art. 2) and words substituted for those words (1.2.1999) by virtue of 1998 c. 31, s. 137, **Sch. 29 para. 8(b)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).
- F4** Words in Sch. 10 para. 9(9) inserted (1.2.1999) by 1998 c. 31, s. 137, **Sch. 29 para. 8(c)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).

Modifications etc. (not altering text)

- C1** Sch. 10 para. 9 applied (with modifications) (10.3.1999) by S.I. 1999/362, **reg. 54(6)(a)**
Sch. 10 para. 9 applied (with modifications) (E.) (31.12.1999) by S.I. 1999/362, **regs. 54A(1)**, 54C(1), (as substituted (E.) (31.12.1999) by S.I. 1999/3297, **reg. 2**)
Sch. 10 paras. 2-10 applied (with modifications) (W.) (31.7.2000) by S.I. 1999/362, **reg. 54A(1)** (as substituted (W.) (31.7.2000) by 2000/1867, reg. 2, Sch.)

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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. 120(4A) inserted by [2022 asc 1 Sch. 4 para. 5\(2\)](#)
- s. 124A(9A)(9B) inserted by [2022 asc 1 s. 137\(3\)](#)
- s. 125(8)(9) inserted by [2022 asc 1 s. 138\(2\)](#)
- s. 128(1)(b)(iib) omitted by [2011 c. 21 Sch. 16 para. 8](#)
- s. 128(1)(b)(iia) omitted by [2015 c. 20 Sch. 14 para. 35](#)
- s. 128(1A)-(1C) inserted by [2022 asc 1 s. 139\(3\)](#)
- s. 128(7)-(10) inserted by [2022 asc 1 s. 139\(6\)](#)
- s. 232(4ZA)-(4ZC) inserted by [2022 asc 1 s. 138\(3\)\(b\)](#)