



# Education Act 1993 (repealed)

## 1993 CHAPTER 35

### PART II

#### GRANT-MAINTAINED SCHOOLS

#### CHAPTER VIII

#### DISCONTINUANCE OF GRANT-MAINTAINED SCHOOLS

##### *Winding up and disposal of property*

#### **111 Power to provide by order for winding-up and disposal of property.**

- (1) Where—
  - (a) proposals for the discontinuance of a grant-maintained school have been approved or adopted under section 106 of this Act, or
  - (b) the Secretary of State has given notice to the governing body of a grant-maintained school under section 109 of this Act specifying a date on which the funding authority's duty to maintain the school will cease,the Secretary of State may by order make provision for the winding up of the governing body and the disposal of the school property.
- (2) Subsections (3) to (7) below apply for the purposes of this section and sections 112 to 116 of this Act.
- (3) "Governing body in liquidation" means a governing body in respect of which any order has been made under this section.
- (4) "School property", in relation to a grant-maintained school conducted or formerly conducted by a governing body in liquidation, means—
  - (a) the premises used or formerly used for the purposes of the school,

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- (b) any interest belonging to the governing body, or held by any trustees on trust for the purposes of the school, in a dwelling house used or held or formerly used or held for occupation by a person employed to work at the school, and
  - (c) all other equipment and property used or held or formerly used or held for the purposes of the school (including any right to such property), except money and any investments to which section 116 of this Act applies.
- (5) References to a grant-maintained school formerly conducted by a governing body in liquidation apply in circumstances where the school has been discontinued before the dissolution date and refer to the school as conducted immediately before discontinuance (and “formerly” in subsection (4)(a) to (c) above applies in the same circumstances and refers to the time immediately before the discontinuance of the school concerned).
- (6) “Dissolution date”, in relation to a governing body in liquidation or the grant-maintained school conducted or formerly conducted by such a body, means the date appointed in relation to that body by virtue of section 112(5) of this Act.
- (7) “Section 105 loan liabilities”, in relation to a governing body in liquidation, means any liabilities in respect of any loans made under section 105 of the <sup>M1</sup>Education Act 1944 (loans by Secretary of State towards initial capital expenditure of aided and special agreement schools) which were transferred to the governing body under section 38 of this Act.

**Modifications etc. (not altering text)**

**C1** Ss. 109-116 applied (with modifications) (1.4.1994) by S.I. 1994/653, regs. 2(2), 33

**Marginal Citations**

**M1** 1944 c. 31.

**112 Winding up.**

- (1) An order under section 111 of this Act may set out a proposed timetable for the winding up of the governing body and, in particular, for—
- (a) securing that all property belonging to the governing body or held by any trustees on trust for the purposes of the school is brought into the custody or control of that body or those trustees (as the case may require),
  - (b) discharging any liabilities of the governing body,
  - (c) making any provision mentioned in subsection (2) below, and
  - (d) the preparation and audit of the governing body’s final accounts.
- (2) The provision referred to in subsection (1)(c) above is provision authorised to be made—
- (a) by section 114 of this Act (for or in connection with the transfer of the school property), or
  - (b) by section 115 of this Act (in respect of the discharge of the liabilities of the governing body).
- (3) An order under section 111 of this Act may make provision as to the exercise of the governing body’s functions in relation to the school including, in particular—

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- (a) provision requiring the governing body in the exercise of those functions to comply with any directions given by the Secretary of State,
  - (b) provision authorising any of those functions to be exercised by a member of the governing body specified in the order, and
  - (c) provision for the application of the seal of the governing body to be authenticated by the signature of a person specified in the order.
- (4) An order under section 111 of this Act—
- (a) may make provision for conferring or imposing functions on the governing body in relation to the winding up and the management and disposal of the school property, and
  - (b) may require the governing body to give to persons employed by them notice terminating their contracts of employment as from a date specified in the order.
- (5) Subject to subsection (6) below, an order under section 111 of this Act may appoint a date on which the governing body are to be dissolved.
- (6) The Secretary of State shall not appoint a dissolution date unless he is satisfied that—
- (a) all liabilities of the governing body (other than any section 105 loan liabilities which fall to be transferred or terminated under section 115 of this Act) have been discharged,
  - (b) all costs of the winding up have been met,
  - (c) any provision authorised by any of sections 114 to 116 of this Act which is possible and expedient in the circumstances of the case has been made, and
  - (d) anything required to be done by the governing body for the purposes of or in connection with any such provision has been done.

**Modifications etc. (not altering text)**

C2 Ss. 109-116 applied (with modifications) (1.4.1994) by S.I. 1994/653, regs. 2(2), 33

**113 Grants to governing body in liquidation.**

- (1) The funding authority may make grants to a governing body in liquidation for the purpose of—
- (a) discharging any liabilities of that governing body (other than section 105 loan liabilities), and
  - (b) meeting any costs incurred by that governing body for the purposes of the winding up in pursuance of an order under section 111 of this Act.
- (2) The funding authority may impose on a governing body to whom such a payment is made such requirements as they may from time to time determine (whether before, at or after the time when the payment in question is made).

**Modifications etc. (not altering text)**

C3 Ss. 109-116 applied (with modifications) (1.4.1994) by S.I. 1994/653, regs. 2(2), 33

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## **114 Disposal of school property.**

- (1) Subject to the provisions of any order under section 111 of this Act, any school property held by the governing body in liquidation immediately before the dissolution date, other than property held by them on trust for the purposes of the school, shall—
  - (a) in the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, vest on that date in the local education authority, and
  - (b) in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, vest on that date in the funding authority.
- (2) Such an order may on such date as may be specified in the order as the transfer date vest the school property or any part of it in any person specified in the order and, where the order does so, it may provide for any property so vested to be held beneficially or on such trusts as may be specified in the order.
- (3) Where any school property is vested in any person other than the funding authority under subsection (1) above or is vested in pursuance of an order under section 111 of this Act, such an order may require the person in whom any property is so vested to pay in respect of the property to the Secretary of State or to such other person as may be so specified such consideration (not exceeding the maximum) as may be so specified.
- (4) Subsection (3) above does not apply to property held on trust for the purposes of the school otherwise than by the governing body; but where an order under section 111 of this Act vests property so held otherwise than by the governing body in any person the order shall require that person to pay to the trustees the maximum consideration in respect of the property.
- (5) The maximum consideration that may be specified in such an order in respect of any school property is—
  - (a) so far as the property consists of premises (including any interest in a dwelling-house such as is mentioned in section 111(4)(b) of this Act), such an amount as the Secretary of State determines to be the market value of the premises as at, or as at a date no earlier than six months before, the dissolution date or, as the case may be, the transfer date, and
  - (b) so far as it consists of other property, such an amount as the Secretary of State determines to be a fair consideration for the transfer of that property.
- (6) Where such an order requires any person in whom any premises are vested to pay any consideration in respect of the premises, the order shall specify the amount determined by the Secretary of State under subsection (5)(a) above; and any dispute as to that amount may be referred to the Lands Tribunal by—
  - (a) the person in whom the premises are vested,
  - (b) the person from whom they are transferred, or
  - (c) the person to whom the consideration is to be paid,
 and shall then be determined by the Tribunal.
- (7) Where—
  - (a) by virtue of subsection (3) or (4) above such an order requires any person in whom any premises are vested to pay any consideration in respect of the premises, and

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- (b) on a reference under subsection (6) above the Lands Tribunal determine a different amount from that determined by the Secretary of State,  
he shall consider whether the amount of the consideration specified in the order requires alteration in the light of the determination of the Tribunal and, if it does, he shall vary the order accordingly.
- (8) Where—
- (a) any school property has been vested in the funding authority, or a local education authority, under subsection (1) above and, in the case of property vested in the local education authority, no order under section 111 of this Act required them to pay any consideration in respect of the property, and
- (b) the funding authority or local education authority subsequently dispose of the property so vested, or any part of it,
- the Secretary of State may require the authority concerned to pay to him or to such person as he may specify the whole or any part of the proceeds of the disposal.
- (9) Nothing in subsection (1) above or in any provision included in an order under section 111 of this Act by virtue of this section shall affect any interest or right of a person in, to or over any school property, being an interest or right which is held by that person otherwise than for the purposes of the school.

**Modifications etc. (not altering text)**

C4 Ss. 109-116 applied (with modifications) (1.4.1994) by S.I. 1994/653, regs. 2(2), 33

**115 Disposal of school property: supplementary.**

- (1) Where by virtue of an order under section 111 of this Act the premises used or formerly used for the purposes of the school, or any part of those premises, are vested in persons proposing to establish a new independent school on the premises—
- (a) such an order may require those persons to discharge any liabilities of the governing body in liquidation in respect of redundancy payments, and
- (b) where the order does so, those liabilities shall be taken into account in determining the amount of consideration (if any) which those persons are required to pay by virtue of section 114(3) of this Act.
- (2) Subsection (1) above does not apply to any property held on trust for the purposes of the school otherwise than by the governing body.
- (3) Where the premises used or formerly used for the purposes of the school, or any part of those premises, are to be used for the purposes of a new or existing grant-maintained school, an order under section 111 of this Act may provide for the transfer to the governing body of the new or existing school of such rights or liabilities of the governing body in liquidation as were acquired or incurred in connection with the premises which are to be so used.
- (4) If—
- (a) the school was an aided or special agreement school immediately before it became grant-maintained,
- (b) proposals have been approved under section 13 of the <sup>M2</sup>Education Act 1980 (establishment and alteration of voluntary schools) for the maintenance as a

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voluntary school of a school which is proposed to be established on the school premises, and

- (c) the Secretary of State has directed that the proposed school shall be an aided school,

any section 105 loan liabilities of the governing body in liquidation shall on the dissolution date be transferred to and become liabilities of the temporary governing body of the new school (subject to any variation of the terms applicable in relation to the loans in question immediately before that date that may be agreed between the Secretary of State and that governing body).

(5) If—

- (a) subsection (4)(a) and (b) above apply, but  
 (b) no direction that the proposed school shall be an aided school has been given before the dissolution date,

any section 105 loan liabilities of the governing body shall be terminated on that date.

(6) If—

- (a) any liabilities of the governing body have been terminated by virtue of subsection (5) above, and  
 (b) a new voluntary school is established in pursuance of any proposals approved under section 13 of the <sup>M3</sup>Education Act 1980 on the school premises,

the amount of those liabilities shall be treated for the purposes of section 14 of the <sup>M4</sup>Education Act 1944 (restrictions on discontinuance of voluntary schools by governors) as expenditure incurred by the Secretary of State (otherwise than in connection with repairs) in respect of the premises of the new school.

**Modifications etc. (not altering text)**

**C5** Ss. 109-116 applied (with modifications) (1.4.1994) by S.I. 1994/653, **regs. 2(2), 33**

**Marginal Citations**

**M2** 1980 c. 20.

**M3** 1980 c. 20.

**M4** 1944 c. 31.

**116 Surplus money and investments.**

(1) Subject to the following provisions of this section—

- (a) any money held by or for a governing body in liquidation (whether in cash or to their account at or on deposit with any bank or other institution), and  
 (b) any investments to which this section applies held by or for such a governing body,

shall, after discharge of the liabilities and costs mentioned in subsection (2) below, be paid or (as the case may be) transferred by the governing body to the Secretary of State.

(2) The liabilities and costs referred to in subsection (1) above are—

- (a) all the liabilities of the governing body in liquidation (other than any not required to be discharged before the dissolution date is appointed), and  
 (b) all costs of the winding up.

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- (3) Where the Secretary of State is satisfied as to the whole or any part of any such money or as to any such investments—
- (a) that the money or that part of it was derived or (as the case may be) those investments were acquired otherwise than from grants paid by him or the funding authority under this Part of this Act, and
  - (b) that it ought to be paid, or the investments ought to be transferred, to a local education authority or to some other person,
- he may require the governing body to pay the money or (as the case may be) an amount equal to the part in question, or to transfer those investments, to such local education authority or other person as he may specify, either beneficially or to be held on trust for such purposes as he may specify.
- (4) Where the premises of the school are to be used for the purposes of a new or existing grant-maintained school, the Secretary of State may require the governing body in liquidation, after discharge of the liabilities mentioned in subsection (2) above—
- (a) to pay any money held by or for them, and
  - (b) to transfer any investments to which this section applies held by or for them,
- to the governing body of the new or existing grant-maintained school, either beneficially or to be held on trust for such purposes as he may specify.
- (5) Without prejudice to the powers of the Secretary of State under subsections (3) and (4) above, any payment of money or transfer of investments under this section shall be free of any trusts on which the money or investments are held by the governing body before the payment or transfer is made.
- (6) This section applies to any investment within the meaning of the <sup>M5</sup>Financial Services Act 1986 which falls within—
- (a) any of paragraphs 1 to 6 of Schedule 1 to that Act (investments and investment business), or
  - (b) paragraph 11 of that Schedule, so far as referring to investments falling within any of paragraphs 1 to 6.
- (7) References in subsection (6) above to any paragraphs of Schedule 1 to the <sup>M6</sup>Financial Services Act 1986 include references to those paragraphs as amended by any order under section 2 of that Act (power to extend or restrict scope of Act) which amends those paragraphs for the purposes of all the provisions of that Act.

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**Modifications etc. (not altering text)**

**C6** Ss. 109-116 applied (with modifications) (1.4.1994) by S.I. 1994/653, regs. 2(2), 33

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**Marginal Citations**

**M5** 1986 c. 60.

**M6** 1986 c. 60.

**Status:**

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