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## SCHEDULES

### SCHEDULE 7 **E+W**

Section 88(1).

#### INCORPORATION OF GOVERNING BODIES OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

##### *Name and seal of incorporated body*

- 1
- (1) A governing body incorporated under section 88(1) shall be known as “The governing body of ...” with the addition of the name of the school.
  - (2) The application of the seal of any such governing body must be authenticated by the signature—
    - (a) of the chairman of the governing body, or
    - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,together with the signature of any other member.
  - (3) Every document purporting to be an instrument made or issued by or on behalf of any such governing body and—
    - (a) to be duly executed under the seal of the governing body, or
    - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

##### *Powers of incorporated body*

- 2
- (1) A governing body incorporated under section 88(1) may do anything (including in particular the things referred to in the following sub-paragraphs) which appears to them to be necessary or expedient for the purpose of or in connection with the exercise of any of the functions conferred on them under or in pursuance of any enactment.
  - (2) A governing body so incorporated may—
    - (a) acquire and dispose of land and other property;
    - (b) enter into contracts, other than contracts of employment;
    - (c) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
    - (d) accept gifts of money, land and other property and apply it, or hold and administer it on trust, for any of those purposes; and
    - (e) do anything incidental to the conduct of the school.

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- (3) Sub-paragraphs (1) and (2) have effect subject to—
- (a) any provisions of the instrument of government or articles of government for the school, and
  - (b) if the school has a delegated budget (as defined in section 115(b)) any provisions of the scheme falling within section 101(1) which covers the school.
- (4) The governing body so incorporated of an aided school may enter into contracts for the employment of teachers and other staff, subject to any provisions of the articles of government for the school other than any provisions for the time being excluded by section 137(2) (aided schools having delegated budgets) from applying to the school.

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

**C1** Sch. 7 para. 2(3) amended (1.4.1999) by S.I. 1999/711, reg. 6

*Property, rights and liabilities*

- 3 On the incorporation under section 88(1) of a governing body (“the new governing body”) for a school which, immediately before the incorporation date, was conducted by a temporary governing body constituted under arrangements made under section 96 or 97—
- (a) all land and other property which, immediately before the date of incorporation, was property of the temporary governing body used or held for the purposes of the school, and
  - (b) all rights and liabilities of the temporary governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body.
- 4 On the incorporation under section 88(1) of a governing body (“the new governing body”) constituted under an instrument of government for two or more schools grouped in pursuance of a resolution under section 89—
- (a) all land and other property which, immediately before the date of incorporation, was property of the governing body of any of those schools used or held for the purposes of the school in question, and
  - (b) all rights and liabilities of the governing body of any of those schools subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body.

*Contracts of employment*

- 5 Without prejudice to the generality of paragraphs 3 and 4, where those provisions effect a transfer of rights and liabilities under a contract of employment—

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- (a) the contract shall have effect from the date of incorporation as if originally made between the employee and the incorporated governing body, and
- (b) without prejudice to sub-paragraph (a) above, 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 date to have been done by or in relation to the incorporated governing body,

but no right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions shall arise by reason only of the change of employer effected by those provisions.

#### *Dissolution and discontinuance*

- 6 (1) A governing body incorporated under section 88(1) are dissolved by virtue of this paragraph—
- (a) if the school they conduct is discontinued;
  - (b) where the school becomes a grant-maintained school or grant-maintained special school, when the local education authority cease to maintain the school; or
  - (c) if a new governing body of the school are constituted under Chapter IV of Part II.
- (2) Where such a governing body conduct two or more schools, sub-paragraph (1) applies when, in relation to each of the schools, paragraph (a), (b) or (c) is satisfied.
- 7 (1) Where such a governing body are to be dissolved by reason of—
- (a) the discontinuance of the county, voluntary or maintained special school which they conduct, or
  - (b) in the case of a governing body conducting two or more such schools, the discontinuance of each such school conducted by them,
- they shall have power to transfer any land or other property of theirs which is used or held for the purposes of the school to any person who provides education.
- (2) Where such a governing body are so dissolved—
- (a) any such land or property for which no provision has been made under sub-paragraph (1) for transfer, and
  - (b) all rights and liabilities of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school in question,
- shall be transferred to and, by virtue of this Act, vest in the local education authority.
- (3) Sub-paragraphs (1) and (2) do not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- 8 (1) This paragraph applies where such a governing body dissolved by virtue of paragraph 6 are the governing body of two or more schools grouped in pursuance of a resolution under section 89.

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- (2) Where none of the schools in the group are discontinued, then in the case of each school formerly a member of the group—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.
- (3) An order made by virtue of sub-paragraph (2) may provide that—
- (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of the schools in the group, and
  - (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.
- (4) Where not all of the schools in the group are discontinued, then in the case of each school formerly a member of the group which is not discontinued—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.
- (5) An order made by virtue of sub-paragraph (4) may provide that—
- (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of any school which is to be discontinued or the schools in the group, and
  - (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.
- (6) Sub-paragraph (5) does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- 9 (1) This paragraph applies in relation to the governing body of two or more schools grouped in pursuance of a resolution under section 89.

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- (2) Where one or more schools conducted by the governing body are discontinued but the governing body are not dissolved by reason of the discontinuance, then in the case of each school formerly a member of the group which is discontinued—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be held by the governing body for the purposes of the schools in the group.
- (3) Sub-paragraph (2) does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- (4) Where, in the case of one or more schools conducted by the governing body, new governing bodies are constituted under Chapter IV of Part II to conduct those schools but the governing body are not dissolved by reason of the constitution of such bodies, then in the case of each school formerly a member of the group—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.
- 10 For the purposes of this Schedule, references to the discontinuance of a school are—
- (a) to the local education authority ceasing to maintain it in accordance with proposals under section 167 (discontinuance of county or voluntary schools) or section 339 (discontinuance of special schools), or
  - (b) to its discontinuance under section 173 (discontinuance by governors of voluntary schools).

*Supplementary provisions about transfers*

- 11 Where a transfer under this Schedule relates to registered land, it shall be the duty of the transferor—
- (a) to execute any such instrument under the Land Registration Acts 1925 to 1986,
  - (b) to deliver any such certificate under those Acts, and
  - (c) to do such other things under those Acts,
- as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.

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- 12 Paragraphs 6 to 8 of Schedule 1.0 to the <sup>M1</sup>Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers effected by this Schedule as they apply to transfers to which that Schedule applies.

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**Marginal Citations**

**M1** 1988 c. 40.

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