

Status: Point in time view as at 08/02/2007.

Changes to legislation: School Standards and Framework Act 1998, SCHEDULE 22 is up to date with all changes known to be in force on or before 14 September 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)

SCHEDULES

SCHEDULE 22

Section 76.

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

PART I

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: DISPOSALS OF LAND

Disposal of land by governing body of foundation, voluntary or foundation special school

- 1 (1) [^{F1}Subject to sub-paragraph (1A),] this paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school of—
- ^{F2}(a) any land acquired under a transfer under section 201(1)(a) of the ^{M1}Education Act 1996, or acquired under paragraph 2 of Schedule 3 or paragraph 16 of Schedule 6 [^{F3}(including that provision as applied by any enactment)] or paragraph 5(4)(c) [^{F4}or 5(4B)(d)] of this Schedule or under any regulations made under paragraph 5 of Schedule 8;
 - (b) any land acquired from a foundation body;
 - (c) any land acquired from the Funding Agency for Schools;
 - (d) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the ^{M2}Education Act 1996);
 - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature; or
 - (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).
- [^{F5}(1A) This paragraph does not apply to any disposal which—
- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
 - (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation falling within section 21(1)(a).]
 - (2) The governing body shall not make [^{F6}any disposal to which this paragraph applies] without the written consent of the Secretary of State.
 - (3) Where the governing body apply to the Secretary of State for his consent to any such disposal [^{F7}and he decides to give that consent], he may do one or more of the following, namely—

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- (a) require the land or any part of the land to be transferred to such local authority as he may specify, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate; and
 - (b) give the governing body, when the land or any part of the land is disposed of—
 - (i) a direction to pay, either to him or to such local authority as he may specify, the whole or any part of the proceeds of disposal; and
 - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (4) More than one direction may be given under sub-paragraph (3)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

Textual Amendments

- F1** Words in Sch. 22 para. 1(1) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(2)(a)** (with s. 119)
- F2** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F3** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F4** Words in Sch. 22 para. 1(1)(a) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(2)(b)** (with s. 119)
- F5** Sch. 22 para. 1(1A) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(3)** (with s. 119)
- F6** Words in Sch. 22 para. 1(2) substituted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(4)** (with s. 119)
- F7** Words in Sch. 22 para. 1(3) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(5)** (with s. 119)

Marginal Citations

- M1** 1996 c. 56.
M2 1996 c. 56.

Disposal of land by foundation body

- 2 (1) This paragraph applies to any disposal by a foundation body of—

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- (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 [^{F8}(including that provision as applied by any enactment)] or paragraph 5 or 6 of Schedule 21 or under any regulations made under paragraph 5 of Schedule 8 [^{F9}or acquired under paragraph 8(5) of Schedule 8 to the Education Act 2002][^{F10}or under paragraph 14(5) of Schedule 10 to the Education Act 2005];
 - (b) any land acquired from the governing body of a maintained school;
 - (c) any land acquired from another foundation body;
 - (d) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the Secretary of State on or after the appointed day;
 - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature; or
 - (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).
- (2) The foundation body shall not make any such disposal without the written consent of the Secretary of State.
- (3) Where the foundation body apply to the Secretary of State for his consent to any such disposal [^{F11}and he decides to give that consent], he may do either or both of the following, namely—
- (a) make any such requirement as is mentioned in paragraph 1(3)(a); and
 - (b) give any such direction to the foundation body as he could give to a governing body under paragraph 1(3)(b).
- (4) More than one direction may be given under sub-paragraph (3)(b) to make a payment in relation to the proceeds of disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
 - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.

Textual Amendments

- F8** Words in Sch. 22 para. 2(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 118\(3\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F9** Words in Sch. 22 para. 2(1)(a) inserted (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 118\(3\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4

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- F10** Words in Sch. 22 para. 2(1)(a) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 15(2)**; S.I. 2006/2129, art. 4
- F11** Words in Sch. 22 para. 2(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 3** (with s. 119)

^{F12}Disposal of land by trustees of foundation school or foundation special school

Textual Amendments

- F12** Sch. 22 para. 2A and cross-heading inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 4** (with s. 119)

- 2A (1) This paragraph applies to any disposal by the trustees of a foundation or foundation special school of—
- (a) any land acquired under paragraph 2 of Schedule 3, under paragraph 16 of Schedule 6 (including that provision as applied by any enactment), under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8,
 - (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (a), or
 - (c) any land falling within sub-paragraph (2) which was acquired by the trustees from the governing body of the school or of another foundation or foundation special school.
- (2) Land falls within this sub-paragraph if—
- (a) it had been acquired by the governing body—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) under any of the provisions mentioned in sub-paragraph (1)(a), or
 - (b) it had been acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in paragraph (a).
- (3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the Secretary of State.
- (4) Where the trustees apply to the Secretary of State for his consent to any such disposal and he decides to give that consent, he may do one or more of the following, namely—
- (a) require the land or any part of the land to be transferred to such local authority as he may specify, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate; and
 - (b) give the trustees, when the land or any part of the land is disposed of—
 - (i) a direction to pay to such local authority as he may specify the whole or any part of the proceeds of the disposal; and
 - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (5) More than one direction may be given under sub-paragraph (4)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.

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- (6) Where the trustees of a foundation or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
 - (b) the value of the land as at the date of any direction under sub-paragraph (4) (b)(i) or (ii) shall be treated as proceeds of the disposal of the land.]

Disposal of land by trustees of foundation, voluntary or foundation special school

- 3 (1) [^{F13}Subject to sub-paragraph (2A),] this paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school of—
- (a) any land acquired under section 60, 61 or 70 of the ^{M3}Education Act 1996, under paragraph 2, 4 or 9 of Schedule 3 or paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment)[^{F14}, under paragraph 5(4B)(d) of this Schedule] or under any regulations made under paragraph 5 of Schedule 8 [^{F15}or acquired under paragraph 8(5) of Schedule 8 to the Education Act 2002][^{F16}or under paragraph 14(5) of Schedule 10 to the Education Act 2005];
 - (b) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
 - (c) any land acquired by the governing body of the school—
 - (i) under a transfer under section 201(1)(a) of the ^{M4}Education Act 1996, or
 - (ii) wholly or partly with the proceeds of disposal of any land so acquired,
 and transferred by the governing body to be held on trust by the trustees;
 - (d) any land acquired from the Funding Agency for Schools;
 - (e) any land acquired, or enhanced in value, wholly or partly by means of—
 - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the ^{M5}Education Act 1996), or
 - (ii) any grant paid under section 216(2) of that Act;
 - (f) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (d) or (e); or
 - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the ^{M6}Education Act 1996).
- (2) If a voluntary aided school was, immediately before the appointed day, a controlled school within the meaning of the ^{M7}Education Act 1996, this paragraph also applies to any disposal by the trustees of the school of any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of that Act.
- [^{F17}(2A) Nothing in sub-paragraph (1) applies in relation to any disposal to the extent that it is a disposal to which paragraph 2A applies.]

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- (3) Where paragraph (a), (b) or (c) of sub-paragraph (1) or sub-paragraph (2) applies, the trustees shall notify the local education authority that that provision applies to them and they or their successors shall pay to the authority so much of the proceeds of disposal as may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Secretary of State.
- (4) In making any determination under sub-paragraph (3), the trustees and the authority, or the Secretary of State, as the case may be, shall have regard in particular to—
 - (a) the value, as at the date of the determination, of the land acquired from the authority;
 - (b) any enhancement in value of the land attributable to expenditure by the local education authority, the trustees or the governing body of the school on school buildings on the land; and
 - (c) any payments already made by the trustees to the authority—
 - (i) in respect of the current school site; or
 - (ii) under section 60(4) of the ^{M8}Education Act 1996 or under paragraph 2(6) of Schedule 3 or paragraph 16(5) of Schedule 6 to this Act.
- (5) More than one determination may be made under sub-paragraph (3) in relation to a disposal of land within sub-paragraph (1) or (2) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Sub-paragraph (1)(b) shall not apply in the case of any expenditure unless the authority—
 - (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) Sub-paragraph (3) does not apply in the case of land acquired under section 60 or 61 of the ^{M9}Education Act 1996 or under paragraph 2 or 4 of Schedule 3 to this Act by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the ^{M10}Education Act 1996).
- (8) Where paragraph (d), (e) or (f) of sub-paragraph (1) applies, the trustees shall notify the local education authority that that paragraph applies to them and they and their successors shall (subject to sub-paragraph (9)) undertake to the authority to use the proceeds of disposal—
 - (a) for the purposes of the school, or
 - (b) for the purposes—
 - (i) of any other existing foundation, voluntary or foundation special school, or
 - ^{F18}(ii) of any other proposed foundation, voluntary or foundation special school, whether or not proposals have yet been published under [^{F19}any enactment] in respect of that proposed school.

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- (9) Where it appears to the Secretary of State that the trustees have not given a suitable undertaking under sub-paragraph (8), the Secretary of State may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as he determines to be just.
- (10) More than one direction may be given under sub-paragraph (9) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (11) Where paragraph (g) of sub-paragraph (1) applies, the governing body of the school shall repay the grant referred to in that paragraph to the local education authority by whom the school is maintained, unless the governing body and the authority otherwise agree.
- (12) Where the trustees of a foundation, voluntary or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
 - (b) the value of the land as at the date of any determination under sub-paragraph (3) or of any direction under sub-paragraph (9) shall be treated as proceeds of the disposal of the land.

Textual Amendments

- F13** Words in Sch. 22 para. 3(1) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 5(2)(a)** (with s. 119)
- F14** Words in Sch. 22 para. 3(1)(a) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 5(2)(b)** (with s. 119)
- F15** Words in Sch. 22 para. 3(1)(a) inserted (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(4)(a)(ii)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- F16** Words in Sch. 22 para. 3(1)(a) inserted (1.9.2006) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 12 para. 15(3)**; S.I. 2006/2129, art. 4
- F17** Sch. 22 para. 3(2A) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 5(3)** (with s. 119)
- F18** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F19** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

Marginal Citations

- M3** 1996 c. 56.
- M4** 1996 c. 56.
- M5** 1996 c. 56.
- M6** 1996 c. 56.
- M7** 1996 c. 56.
- M8** 1996 c. 56.
- M9** 1996 c. 56.
- M10** 1996 c. 56.

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Land required by local education authority for new school

- 4 (1) This paragraph applies where, on an application made by a local education authority, the Secretary of State is satisfied—
- (a) that any relevant land—
 - (i) held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the governing body or the trustees of the school, or
 - (ii) held by a foundation body for the purposes of the group of schools for which it acts,
 is not required for the purposes of the school or (as the case may be) those schools; and
 - (b) that that land is required by the authority as the site for a new maintained school or as the site to which a maintained school is to be transferred.
- (2) In such a case the Secretary of State may by order require the relevant land to be transferred to the authority by the body or trustees holding the land, subject to the payment by the authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) In this paragraph “relevant land” means land which was acquired by the governing body of the school, or (as the case may be) one of the schools, mentioned in sub-paragraph (1)(a) under a transfer under section 201(1)(a) of the ^{M11}Education Act 1996.

Marginal Citations

M11 1996 c. 56.

PART II

MAINTAINED SCHOOLS: DISPOSALS ON DISCONTINUANCE

Discontinuance of foundation, voluntary and foundation special schools: land

- 5 (1) This paragraph applies where—
- ^{F20}(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted [^{F21}, confirmed] or determined to be implemented under any enactment, or]
 - (b) the Secretary of State has given a direction—
 - (i) under section 19(1) requiring a maintained school to be discontinued, or
 - (ii) under section 32(1) requiring a foundation special school to be discontinued.
- (2) The governing body of the school shall apply to the Secretary of State for him to exercise his powers under sub-paragraph (4) below in relation to any land falling within paragraphs (a) to (f) of paragraph 1(1) which is held by them for the purposes of the school.

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- (3) Where the school is a member of the group for which a foundation body acts, the body shall apply to the Secretary of State for him to exercise his powers under sub-paragraph (4) below in relation to any land falling within paragraphs (a) to (f) of paragraph 2(1) which is held by it for the purposes of the schools comprising the group.
- (4) On an application under sub-paragraph (2) or (3), the Secretary of State may do one or more of the following, namely—
- (a) make any such requirement as is mentioned in paragraph 1(3)(a);
 - (b) direct the governing body or the foundation body, as the case may be, to pay, either to him or to such local authority as he may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land referred to in sub-paragraph (2) or (3), as the case may be; and
 - (c) in a case where the discontinuance of the school is connected with proposals under [^{F22}any enactment] to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred to the governing body of such maintained school or the temporary governing body of such new school as he may specify.
- [^{F23}(4A) Where the school is a foundation or foundation special school which has a foundation, the trustees of the school shall apply to the Secretary of State for him to exercise his powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), (b) or (c) which is held by the trustees for the purposes of the school.
- (4B) On an application under sub-paragraph (4A), the Secretary of State may do one or more of the following, namely—
- (a) make any such requirement as is mentioned in paragraph 2A(4)(a);
 - (b) where the trustees have power to use the land for the purposes of another foundation or foundation special school or for the purposes of a voluntary school, direct the trustees to exercise that power in such manner as he may specify;
 - (c) direct the trustees to pay to such local authority as he may specify the whole or any part of the value, as at the date of the direction, of the whole or any part of the land referred to in sub-paragraph (4A); and
 - (d) in a case where the discontinuance of the school is connected with proposals under any enactment to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred—
 - (i) to the trustees, foundation body or governing body of such maintained school as he may specify, or
 - (ii) to the trustees, foundation body or temporary governing body of such new school as he may specify.]
- (5) Where the governing body [^{F24}, foundation body or trustees] fail to make an application as required by sub-paragraph [^{F25}(2), (3) or (4A)], as the case may be, the Secretary of State may nevertheless make any such requirement or give any such direction as is mentioned in sub-paragraph [^{F26}(4) or (4B), as the case may be].
- (6) Where the trustees of the school—

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- (a) dispose of any land falling within paragraph 3(1) or (2) [^{F27}but not within paragraph 2A(1)(a), (b) or (c)], or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.

Textual Amendments

- F20** Sch. 22 para. 5(1)(a) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 118\(5\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F21** Words in Sch. 22 para. 5(1)(a) inserted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\), art. 1\(1\), Sch. 1 para. 40](#) (with art. 7)
- F22** Words in Sch. 22 para. 5(4)(c) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 118\(5\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F23** Sch. 22 para. 5(4A)(4B) inserted (7.6.2005) by [Education Act 2005 \(c. 18\), s. 125\(2\), Sch. 17 para. 6\(2\)](#) (with s. 119)
- F24** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by [Education Act 2005 \(c. 18\), s. 125\(2\), Sch. 17 para. 6\(3\)\(a\)](#) (with s. 119)
- F25** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by [Education Act 2005 \(c. 18\), s. 125\(2\), Sch. 17 para. 6\(3\)\(b\)](#) (with s. 119)
- F26** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by [Education Act 2005 \(c. 18\), s. 125\(2\), Sch. 17 para. 6\(3\)\(c\)](#) (with s. 119)
- F27** Words in Sch. 22 para. 5(6)(a) inserted (7.6.2005) by [Education Act 2005 \(c. 18\), s. 125\(2\), Sch. 17 para. 6\(4\)](#) (with s. 119)

Discontinuance of foundation or voluntary school by notice given by its governing body: land and premises

- 6 (1) This paragraph applies where the governing body of a foundation or voluntary school apply for the Secretary of State's consent to serve a notice under section 30(1).
- (2) If the Secretary of State gives such consent, he may impose any requirements in relation to the governing body or, where the school is a member of the group for which a foundation body acts, the foundation body that he thinks just—
- (a) in respect of the repayment of all or part of any expenditure incurred by him as mentioned in section 30(2);
 - (b) in respect of the transfer to the local education authority of any premises used for the purposes of the school which he is satisfied the authority will need for any purpose connected with education;
 - (c) (where any premises are to be so transferred) in respect of the payment by the authority of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
 - (d) (where any premises used for the purposes of the school are not to be so transferred) in respect of the payment by the governing body or the foundation body, as the case may be, to the authority of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.

Status: Point in time view as at 08/02/2007.

Changes to legislation: School Standards and Framework Act 1998, SCHEDULE 22 is up to date with all changes known to be in force on or before 14 September 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)

- (3) In sub-paragraph (2) “at public expense” means at the expense of—
- (a) the Funding Agency for Schools, or
 - (b) any local education authority or an authority within section 30(2)(d).
- (4) Where the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2), or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.

Disposal of property held by governing body of maintained school on their dissolution

- 7 (1) This paragraph applies in connection with the dissolution of the governing body of a maintained school by virtue of [F²⁸ paragraph 5 of Schedule 1 to the Education Act 2002].
- (2) Where a governing body are so dissolved—
- (a) all land or other property of the governing body which is used or held for the purposes of the school, and
 - (b) all rights and liabilities (including rights and liabilities in relation to staff) of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school,
- shall on the date of dissolution be transferred to, and by virtue of this Act vest in—
- (i) the local education authority, or
 - (ii) one or more of the following, namely the governing body of a maintained school and the temporary governing body of a new school, if the Secretary of State so directs before the date of dissolution.
- (3) Sub-paragraph (2) does not apply to—
- (a) any land or other property for which provision has been made for transfer or payment under paragraph 5(4) or 6(2),
 - (b) any property of whatever nature which is held by the governing body on trust for the purposes of the school, or
 - (c) unless the Secretary of State otherwise directs by order made before the date of dissolution, any liabilities of the governing body in respect of any loan made to the governing body.
- (4) Subject to sub-paragraph (5), a governing body who are to be dissolved as mentioned in sub-paragraph (1) may transfer any land or other property which is held by them on trust for the purposes of the school to any person to hold such land or other property on trust for purposes connected with the provision of education in maintained schools.
- (5) Sub-paragraph (4) does not apply to any land or other property so held by the governing body of a foundation, voluntary or foundation special school where any other persons also hold any property on trust for the purposes of the school; and any such land or other property shall on the date of dissolution be transferred to, and by virtue of this Act vest in, those persons.
- (6) If any doubt or dispute arises as to the persons to whom any land or other property within sub-paragraph (5) falls to be transferred under that sub-paragraph, it shall be

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treated as falling to be so transferred to such persons as the Secretary of State thinks proper.

Textual Amendments

F28 Words in Sch. 22 para. 7(1) substituted (1.10.2002 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 118\(6\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2005/2910, art. 4, Sch.

Notice by trustees terminating foundation or voluntary school's occupation of existing site

- 8 (1) This paragraph applies where trustees have given a notice falling within section 30(10) which is effective to terminate a foundation or voluntary school's occupation of any land ("the relevant premises").
- (2) If any expenditure has been incurred on the relevant premises as mentioned in section 30(2)(a) to (d), the Secretary of State may impose any requirements that he thinks just—
- (a) in respect of the repayment by the trustees of all or part of any such expenditure which was incurred by him;
 - (b) in respect of the transfer by the trustees to the local education authority of the whole or part of the relevant premises where he is satisfied the authority will need them for any purpose connected with education;
 - (c) (to the extent that the relevant premises are to be so transferred) in respect of the payment by the authority to the trustees of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
 - (d) (to the extent that the relevant premises are not to be so transferred) in respect of the payment by the trustees to the authority of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.
- (3) In sub-paragraph (2) "at public expense" means at the expense of—
- (a) the Funding Agency for Schools, or
 - (b) any local education authority or an authority within section 30(2)(d).

PART III

GENERAL

- 9 (1) Where a transfer under paragraph 1(3)(a), 2(3)(a), 4(2), 5(4)(a) or (c), 6(2)(b) or 8(2)(b) of this Schedule relates to registered land, it shall be the duty of the transferor—
- (a) to execute any such instrument under the [^{F29}Land Registration Act 2002],
 - (b) to deliver any such certificate under [^{F30}that Act], and
 - (c) to do such other things under [^{F30}that Act],
- 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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- (2) Paragraphs 6 to 8 of Schedule 10 to the ^{M12}Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers under paragraph 7 of this Schedule as they apply in relation to transfers to which that Schedule applies.

Textual Amendments

F29 Words in Sch. 22 para. 9(1)(a) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 37\(a\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

F30 Words in Sch. 22 para. 9(1)(b)(c) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 37\(b\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

Marginal Citations

M12 1988 c. 40.

- 10 (1) In this Schedule—
- (a) “the trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school;
 - (b) “disposal” includes—
 - (i) a compulsory disposal; and
 - (ii) in the case of any premises held under a tenancy to which Part II of the ^{M13}Landlord and Tenant Act 1954 (“the 1954 Act”) applies, the termination of that tenancy under that Part of that Act;
 - (c) references to “proceeds of disposal”, in relation to a disposal of land, are references to—
 - (i) any consideration for the disposal, including rent;
 - (ii) any compensation for the disposal, including any compensation paid by the landlord on the quitting of any premises within paragraph (b) (ii) by the governing body, foundation body or trustees (whether or not the compensation is required to be paid by section 37 of the 1954 Act (compensation where order for new tenancy precluded on certain grounds)); and
 - (iii) interest which has accrued in respect of any such consideration or compensation;
 - (d) “new school” has the meaning given by section 72(3).
- (2) In paragraphs (b)(ii) and (c)(ii) of sub-paragraph (1) expressions to which a meaning is given for the purposes of the 1954 Act have the same meaning as in that Act.
- (3) In paragraphs 1(1), 3(1) and 4(3) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day—
- (a) to any land being acquired in a particular way, or
 - (b) to any grant being provided in a particular way,
- are references to the land being acquired in that way by, or (as the case may be) to the grant being provided in that way to, the governing body or trustees of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the ^{M14}Education Act 1996.
- (4) In paragraphs 1(1) and 3(1) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before

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the appointed day, to any expenditure being incurred for the purposes of the school are references to such expenditure being incurred for the purposes of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the ^{M15}Education Act 1996.

- (5) In paragraph 1(1) references, in relation to the governing body of a foundation, voluntary or foundation special school, to any land being acquired in a particular way include references to the land being acquired in that way by the temporary governing body for the school.

Marginal Citations

- M13** 1954 c. 56.
M14 1996 c. 56.
M15 1996 c. 56.

[^{F31}PART IV

DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE LOCAL EDUCATION AUTHORITY

Textual Amendments

- F31** Sch. 22 Pt. IV inserted (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), **art. 12** (with art. 13)

- 11 (1) In this paragraph—
- (a) “capital expenditure” has the meaning given by Article 13 of the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002, as it has effect from time to time;
 - (b) “commencement date” means the date on which that Order comes into force;
 - (c) “relevant body” means—
 - (i) the governing body of a voluntary aided school; or
 - (ii) if the school has been discontinued and the governing body dissolved, the trustees;
 - (d) “relevant land” means—
 - (i) any caretaker’s dwelling; or
 - (ii) other buildings which are not school buildings;
 which form part of the premises of a voluntary aided school.
- (2) This paragraph applies to any disposal by the local education authority of relevant land enhanced in value wholly or partly by means of capital expenditure incurred by the governing body after the commencement date.
- (3) But this paragraph shall not apply unless the relevant body gives to the local education authority no later than 12 months after the expenditure is incurred a statement—
- (a) setting out the amount of expenditure; and
 - (b) stating that it is capital expenditure.

Status: Point in time view as at 08/02/2007.

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- (4) Where this paragraph applies, the local education authority shall notify the relevant body that the provision applies to them and they shall pay to the relevant body so much of the proceeds of disposal as may be determined to be just, either by agreement between them and the relevant body or, in default of agreement, by the Secretary of State.
- (5) In making the determination under sub-paragraph (4), the relevant body and the local education authority, or the Secretary of State, as the case may be, shall have regard in particular to any enhancement in value of the relevant land attributable to expenditure by or on behalf of the governing body.
- (6) If the local education authority permit relevant land to be used for purposes not connected with the school—
 - (a) they shall be treated for the purposes of this paragraph as having disposed of the land; and
 - (b) sub-paragraph (4) shall have effect as if the reference to proceeds of disposal were a reference to the value of the land.]

Status:

Point in time view as at 08/02/2007.

Changes to legislation:

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