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SCHEDULES

SCHEDULE 22 **E+W**

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

PART I **E+W**

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: DISPOSALS OF LAND

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

- 1 (1) This paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school of—
- (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 or paragraph 5(4)(c) 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).
- (2) The governing body shall not make any such disposal 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, 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 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.

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- (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.

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—
- (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 or paragraph 5 or 6 of Schedule 21 or under any regulations made under paragraph 5 of Schedule 8;
 - (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, 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).

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- (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.

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

- 3 (1) 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 or under any regulations made under paragraph 5 of Schedule 8;
 - (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.

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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
 - (ii) of any other proposed foundation, voluntary or foundation special school, whether or not proposals have yet been published under section 28 or 31 in respect of that proposed school.
- (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

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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.

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.

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.

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- (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 subparagraph (1)(a) under a transfer under section 201(1)(a) of the ^{M11}Education Act 1996.

Marginal Citations

M11 1996 c. 56.

Status:

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