

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998, Cross Heading: Disposal of land by trustees of foundation, voluntary or foundation special school is up to date with all changes known to be in force on or before 17 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)

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 [^{F1}IN WALES]: DISPOSALS OF LAND

Textual Amendments

- F1** Words in Sch. 22 Pt. 1 heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 3](#); [S.I. 2007/935](#), [art. 7\(p\)](#) (with [art. 8\(5\)](#))

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

- 3 (1) [^{F1}Subject to sub-paragraph (2A),] this paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school [^{F2}in Wales] of—
- (a) any land acquired under section 60, 61 or 70 of the ^{M1}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)^{F3}, under paragraph 5(4B)(d) of this Schedule] or under any regulations made under paragraph 5 of Schedule 8 ^{F4}...;
 - (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 ^{M2}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;
 - ^{F5}(d)
 - (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 ^{M3}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 ^{F6}... (e); or

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- (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 ^{M4}Education Act 1996).
- (2) If a voluntary aided school [^{F7}in Wales] was, immediately before the appointed day, a controlled school within the meaning of the ^{M5}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.
- ^{F8}(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.]
- (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 [^{F9}Assembly].
- (4) In making any determination under sub-paragraph (3), the trustees and the authority, or the [^{F10}Assembly], 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 ^{M6}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 ^{M7}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 ^{M8}Education Act 1996).
- (8) Where paragraph ^{F11}... (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

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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
 - ^{F12}(ii) of any other proposed foundation, voluntary or foundation special school, whether or not proposals have yet been published under ^{F13}any enactment] in respect of that proposed school.

- (9) Where it appears to the ^{F14}Assembly] that the trustees have not given a suitable undertaking under sub-paragraph (8), the ^{F14}Assembly] may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as ^{F15}the Assembly] 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 ^{F16}in Wales] 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

- F1** 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)
- F2** Words in Sch. 22 para. 3(1) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 7(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F3** 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)
- F4** Words in Sch. 22 para. 3(1)(a) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 4 para. 7(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F5** Sch. 22 para. 3(1)(d) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 4 para. 7(2)(c), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F6** Words in Sch. 22 para. 3(1)(f) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 4 para. 7(2)(d), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F7** Words in Sch. 22 para. 3(2) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 7(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F8** 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)

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- F9** Word in Sch. 22 para. 3(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F10** Word in Sch. 22 para. 3(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F11** Word in Sch. 22 para. 3(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(5), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F12** 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
- F13** 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
- F14** Word in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F15** Words in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F16** Words in Sch. 22 para. 3(12) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(7)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Marginal Citations

- M1** 1996 c. 56.
M2 1996 c. 56.
M3 1996 c. 56.
M4 1996 c. 56.
M5 1996 c. 56.
M6 1996 c. 56.
M7 1996 c. 56.
M8 1996 c. 56.

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