

*Status: Point in time view as at 26/08/2020.*

**Changes to legislation:** School Standards and Framework Act 1998, Cross Heading: Discontinuance of foundation, voluntary and foundation special schools: land is up to date with all changes known to be in force on or before 22 May 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

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

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

- C1** Sch. 22 excluded (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), Sch. 1 para. 10(2)(c); S.I. 2010/1937, art. 2, Sch. 1

#### PART II

##### MAINTAINED SCHOOLS: DISPOSALS ON DISCONTINUANCE

###### *Discontinuance of foundation, voluntary and foundation special schools: land*

- 5 (1) This paragraph applies where—
- <sup>F1</sup>(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted [<sup>F2</sup>, confirmed] or determined to be implemented under any enactment, or]
  - (b) the [<sup>F3</sup>appropriate authority] has given a direction—
    - <sup>F4</sup>(i) under [<sup>F5</sup>section 16 of the School Standards and Organisation (Wales) Act 2013] requiring a foundation [<sup>F6</sup>or voluntary] school in Wales to be discontinued,
    - <sup>F7</sup>(ii) .....
    - (iii) under section 68(1) of the Education and Inspections Act 2006 requiring a foundation, voluntary or foundation special school in England to be discontinued, or
    - (iv) under section 17(1) of that Act requiring a foundation special school in England to be discontinued.]
- <sup>F8</sup>(1A) But this paragraph does not apply where proposals mentioned in sub-paragraph (1) (a) have been approved, adopted, confirmed or determined to be implemented in consequence of an Academy order made in respect of the school.]
- (2) The governing body of the school shall apply to the [<sup>F9</sup>appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
- (a) if the school is in England, any land falling within paragraphs (a) to (i) of paragraph A1(1) other than land falling within sub-paragraph (2A), or
  - (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 1(1),
- which is held by the body for the purposes of the school.]

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- [<sup>F10</sup>(2A) Land falls within this sub-paragraph if it is—
- (a) land falling within paragraph (g) of paragraph A1(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
  - (b) land falling within paragraph (i) of paragraph A1(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.
- (2B) If the school is in England and the governing body dispose of any land falling within sub-paragraph (2A) which is held by them for the purposes of the school, paragraph A1 shall apply to them.]
- (3) Where the school is a member of the group for which a foundation body acts, the body shall apply to the [<sup>F11</sup>appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
- (a) if the school is in England, any land falling within paragraphs (a) to (h) of paragraph A7(1) other than land falling within sub-paragraph (3A), or
  - (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 2(1),
- which is held by the body for the purposes of the schools comprising the group.]
- [<sup>F12</sup>(3A) Land falls within this sub-paragraph if it is—
- (a) land falling within paragraph (f) of paragraph A7(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
  - (b) land falling within paragraph (h) of paragraph A7(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.
- (3B) If the school is in England and the foundation body disposes of any land falling within sub-paragraph (3A) which is held by it for the purposes of the schools comprising the group, paragraph A7 shall apply to it.]
- (4) On an application under sub-paragraph (2) or (3), the [<sup>F13</sup>appropriate authority] may do one or more of the following, namely—
- [<sup>F14</sup>(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
  - [<sup>F15</sup>(aa) in the case of a school in England, make a direction in respect of the land under paragraph 11 of Schedule 1 to the Academies Act 2010 (transfer to Academy);]
  - (b) direct the governing body or the foundation body, as the case may be, to pay, either to [<sup>F16</sup>the appropriate authority] or to such local authority as [<sup>F16</sup>the appropriate authority] 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 [<sup>F17</sup>any enactment] to establish, or to make a prescribed alteration [<sup>F18</sup>or regulated 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 [<sup>F19</sup>the appropriate authority] may specify.

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- [<sup>F20</sup>(4ZA) Where the school is in England, the trustees of the school shall apply to the appropriate authority for it to exercise its powers under sub-paragraph (4B) in relation to any land falling within paragraph A13(1), (2) or (3), other than land falling within sub-paragraph (4ZB), which is held by the trustees for the purposes of the school.
- (4ZB) Land falls within this sub-paragraph if it is—
- (a) land falling within paragraph (j) of paragraph A13(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
  - (b) land falling within paragraph (k) of paragraph A13(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.]
- [<sup>F21</sup>(4A) Where the school [<sup>F22</sup>is in Wales and] is a foundation <sup>F23</sup>... school which has a foundation, the trustees of the school shall apply to the [<sup>F24</sup>appropriate authority for it to exercise its] powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), [<sup>F25</sup>(aa),] (b) or (c) which is held by the trustees for the purposes of the school.
- (4B) On an application under sub-paragraph [<sup>F26</sup>(4ZA) or] (4A), the [<sup>F27</sup>appropriate authority] may do one or more of the following, namely—
- [<sup>F28</sup>(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
  - [<sup>F29</sup>(aa) in the case of a school in England, make a direction in respect of the land under paragraph 11 of Schedule 1 to the Academies Act 2010 (transfer to Academy);]
  - (b) where the trustees have power to use the land [<sup>F30</sup>—
    - (i) in the case of a school in England, for the purposes of another foundation, voluntary or foundation special school, or
    - (ii) in the case of a school in Wales, for the purposes of another foundation <sup>F31</sup>... school or for the purposes of a voluntary school,
 direct the trustees to exercise that power in such manner as the appropriate authority may specify;]
  - (c) direct the trustees to pay to such local authority as [<sup>F32</sup>the appropriate authority] 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 [<sup>F33</sup>(4ZA) or, as the case may be,] (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 [<sup>F34</sup>or regulated 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 [<sup>F35</sup>the appropriate authority] may specify, or
    - (ii) to the trustees, foundation body or temporary governing body of such new school as [<sup>F35</sup>the appropriate authority] may specify.]

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- (5) Where the governing body [<sup>F36</sup>, foundation body or trustees] fail to make an application as required by sub-paragraph [<sup>F37</sup>(2), (3) [<sup>F38</sup>, (4ZA)] or (4A)], as the case may be, the [<sup>F39</sup>appropriate authority] may nevertheless make any such requirement or give any such direction as is mentioned in sub-paragraph [<sup>F40</sup>(4) or (4B), as the case may be].
- [<sup>F41</sup>(5A) Where the school is in England and the trustees of the school—
- (a) dispose of any land falling within sub-paragraph (4ZB), or
  - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools [<sup>F42</sup>or Academies],
- paragraph A13 shall apply to them.]
- (6) Where [<sup>F43</sup>the school is in Wales and] the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2) [<sup>F44</sup>but not within paragraph 2A(1)(a), [<sup>F45</sup>(aa),] (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.
- [<sup>F46</sup>(7) In this paragraph “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

#### Textual Amendments

- F1** 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
- F2** 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)
- F3** Words in Sch. 22 para. 5(1)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 9(2)(a)**; S.I. 2007/935, art. 7(p)
- F4** Sch. 22 para. 5(1)(b)(i)-(iv) substituted for Sch. 22 para. 5(1)(b)(i)(ii) (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 9(2)(b)**; S.I. 2007/935, art. 7(p)
- F5** Words in Sch. 22 para. 5(1)(b)(i) substituted (W.) (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 4(9)**; S.I. 2014/178, art. 2(f) (with art. 3)
- F6** Words in Sch. 22 para. 5(1)(b)(i) substituted (W.) (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 19(14)(f)(i)**; S.I. 2013/1800, art. 3(j)
- F7** Sch. 22 para. 5(1)(b)(ii) omitted (W.) (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 19(14)(f)(ii)**; S.I. 2013/1800, art. 3(j)
- F8** Sch. 22 para. 5(1A) inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 14 para. 14(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F9** Words in Sch. 22 para. 5(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 9(3)**; S.I. 2007/935, art. 7(p)
- F10** Sch. 22 para. 5(2A)(2B) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 9(4)**; S.I. 2007/935, art. 7(p)
- F11** Words in Sch. 22 para. 5(3) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 9(5)**; S.I. 2007/935, art. 7(p)
- F12** Sch. 22 para. 5(3A)(3B) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 9(6)**; S.I. 2007/935, art. 7(p)

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- F13** Words in Sch. 22 para. 5(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(a)**; S.I. 2007/935, art. 7(p)
- F14** Sch. 22 para. 5(4)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(b)**; S.I. 2007/935, art. 7(p)
- F15** Sch. 22 para. 5(4)(aa) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 14(3)**; S.I. 2012/84, art. 3 (with art. 5)
- F16** Words in Sch. 22 para. 5(4)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(c)**; S.I. 2007/935, art. 7(p)
- F17** 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
- F18** Words in Sch. 22 para. 5(4)(c) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(iii)**; S.I. 2013/1800, art. 3(j)
- F19** Words in Sch. 22 para. 5(4)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(d)**; S.I. 2007/935, art. 7(p)
- F20** Sch. 22 para. 5(4ZA)(4ZB) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(8)**; S.I. 2007/935, art. 7(p)
- F21** 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)
- F22** Words in Sch. 22 para. 5(4A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(9)(a)**; S.I. 2007/935, art. 7(p)
- F23** Words in Sch. 22 para. 5(4A) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(iv)**; S.I. 2013/1800, art. 3(j)
- F24** Words in Sch. 22 para. 5(4A) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(9)(b)**; S.I. 2007/935, art. 7(p)
- F25** Word in Sch. 22 para. 5(4A) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(iv)**; S.I. 2013/1800, art. 3(j)
- F26** Words in Sch. 22 para. 5(4B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(a)**; S.I. 2007/935, art. 7(p)
- F27** Words in Sch. 22 para. 5(4B) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(b)**; S.I. 2007/935, art. 7(p)
- F28** Sch. 22 para. 5(4B)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(c)**; S.I. 2007/935, art. 7(p)
- F29** Sch. 22 para. 5(4B)(aa) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 14(4)**; S.I. 2012/84, art. 3 (with art. 5)
- F30** Words in Sch. 22 para. 5(4B)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(d)**; S.I. 2007/935, art. 7(p)
- F31** Words in Sch. 22 para. 5(4B)(b)(ii) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(v)**; S.I. 2013/1800, art. 3(j)
- F32** Words in Sch. 22 para. 5(4B)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F33** Words in Sch. 22 para. 5(4B)(c) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(e)**; S.I. 2007/935, art. 7(p)
- F34** Words in Sch. 22 para. 5(4B)(d) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(vi)**; S.I. 2013/1800, art. 3(j)
- F35** Words in Sch. 22 para. 5(4B)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F36** 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)
- F37** 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)
- F38** Word in Sch. 22 para. 5(5) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(a)**; S.I. 2007/935, art. 7(p)

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- F39** Words in Sch. 22 para. 5(5) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(b)**; S.I. 2007/935, art. 7(p)
- F40** 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)
- F41** Sch. 22 para. 5(5A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(12)**; S.I. 2007/935, art. 7(p)
- F42** Words in Sch. 22 para. 5(5A)(b) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 14(5)**; S.I. 2012/84, art. 3 (with art. 5)
- F43** Words in Sch. 22 para. 5(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(13)**; S.I. 2007/935, art. 7(p)
- F44** 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)
- F45** Word in Sch. 22 para. 5(6)(a) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(vii)**; S.I. 2013/1800, art. 3(j)
- F46** Sch. 22 para. 5(7) added (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(f)**

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