

Status: Point in time view as at 01/09/2012.

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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

[^{F1}PART IV

DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE [^{F2}LOCAL AUTHORITY]

Textual Amendments

- F1** 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)
- F2** Words in Act substituted (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(2)** (with Sch. 2 para. 10(4))

- 11 (1) In this paragraph—
- [^{F3}(a) subject to sub-paragraph (7), “capital expenditure” means expenditure of the governing body in question which falls to be capitalised in accordance with proper accounting practices;]
 - (b) “commencement date” means the date on which [^{F4}the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002] 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 [^{F2}local authority] of relevant land enhanced in value wholly or partly by means of capital expenditure incurred by the governing body after the commencement date.

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- (3) But this paragraph shall not apply unless the relevant body gives to the [F²local 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.
- (4) Where this paragraph applies, the [F²local 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 [F⁵—
- (a) by agreement between the authority and the relevant body, or
 - (b) by the adjudicator where—
 - (i) the authority or the relevant body refer the matter to him for determination, and
 - (ii) by the time of his determination, the matter has not been determined by agreement between the authority and the relevant body.]
- [In determining whether to make a reference to the adjudicator under sub-
 F⁶(4A) paragraph (4)(b), the authority or, as the case may be, the relevant body, must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4B) Before making a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must give the other notice of their intention to make the reference.]
- (5) In making the determination under sub-paragraph (4), the relevant body and the [F²local authority], or the [F⁷adjudicator], as the case may be, shall have regard in particular [F⁸to any guidance given from time to time by the Secretary of State and] to any enhancement in value of the relevant land attributable to expenditure by or on behalf of the governing body.
- [A determination made by the adjudicator on a reference made to him under sub-
 F⁹(5A) paragraph (4)(b) may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by the [F²local authority] or the relevant body, and
 - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (5B) In determining whether to make a reference to the adjudicator under sub-paragraph (5A)(a), the [F²local authority] or the relevant body must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (5C) Sub-paragraph (5) applies in relation to the further determination of any matter by the adjudicator, by virtue of sub-paragraph (5A), as it applies in relation to the original determination of the matter.]
- (6) If the [F²local 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.

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- [The Secretary of State may—
- ^{F10}(7) (a) by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of any governing body or of any prescribed class or description of governing body;
- (b) by direction provide that expenditure of a particular governing body which is expenditure of a particular class or description is to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of that body.
- (8) Directions under sub-paragraph (7)(b) may be expressed to have effect in specified circumstances or subject to specified conditions.]]

Textual Amendments

- F3** Sch. 22 para. 11(1)(a) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(2\)](#); S.I. 2007/935, art. 7(p)
- F4** Words in Sch. 22 para. 11(1)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(3\)](#); S.I. 2007/935, art. 7(p)
- F5** Words in Sch. 22 para. 11(4) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(4\)](#); S.I. 2007/935, art. 7(p)
- F6** Sch. 22 para. 11(4A)(4B) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(5\)](#); S.I. 2007/935, art. 7(p)
- F7** Word in Sch. 22 para. 11(5) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(6\)\(a\)](#); S.I. 2007/935, art. 7(p)
- F8** Words in Sch. 22 para. 11(5) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(6\)\(b\)](#); S.I. 2007/935, art. 7(p)
- F9** Sch. 22 para. 11(5A)-(5C) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(7\)](#); S.I. 2007/935, art. 7(p)
- F10** Sch. 22 para. 11(7)(8) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(8\)](#); S.I. 2007/935, art. 7(p)

- ^{F11}12 (1) For the purposes of paragraph 11(1)(a), “proper accounting practices”, in relation to a governing body, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the governing body, or
- (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the [^{F2}local authority].
- (2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.]

Textual Amendments

- F11** Sch. 22 para. 12 inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 17](#); S.I. 2007/935, art. 7(p)

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