

*Status: Point in time view as at 07/06/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, SCHEDULE 17. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 17 **E+W**

Section 107

#### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: DISPOSAL OF LAND

- 1 Schedule 22 to the School Standards and Framework Act 1998 (c. 31) (disposal of land in case of certain schools and disposals on discontinuance) is amended as follows.
- 2 (1) Paragraph 1 (disposal of land by governing body of foundation, voluntary or foundation special school) is amended as follows.
  - (2) In sub-paragraph (1)—
    - (a) at the beginning insert “ Subject to sub-paragraph (1A), ”, and
    - (b) in paragraph (a), after “paragraph 5(4)(c)” insert “ or 5(4B)(d) ”.
  - (3) After sub-paragraph (1) insert—

“(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).”
  - (4) In sub-paragraph (2), for “any such disposal” substitute “ any disposal to which this paragraph applies ”.
  - (5) In sub-paragraph (3), after “any such disposal” insert “ and he decides to give that consent ”.
- 3 In paragraph 2 (disposal of land by foundation body), in sub-paragraph (3) after “any such disposal” insert “ and he decides to give that consent ”.
- 4 After paragraph 2 insert—

#### *“Disposal of land by trustees of foundation school or foundation special school*

- 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

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- (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.
- (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.”
- 5 (1) Paragraph 3 (disposal of land by trustees of foundation, voluntary or foundation special school) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) at the beginning insert “ Subject to sub-paragraph (2A), ”, and
  - (b) in paragraph (a), after “enactment)” insert “ , under paragraph 5(4B)(d) of this Schedule ”.

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(3) After sub-paragraph (2) insert—

“(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.”

6 (1) Paragraph 5 (discontinuance of foundation, voluntary and foundation special schools: land) is amended as follows.

(2) After sub-paragraph (4) insert—

“(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.”

(3) In sub-paragraph (5)—

- (a) for “or foundation body” substitute “, foundation body or trustees”,
- (b) for “(2) or (3)” substitute “(2), (3) or (4A)”, and
- (c) for “(4)” substitute “(4) or (4B), as the case may be”.

(4) In sub-paragraph (6)(a), after “falling within paragraph 3(1) or (2)” insert “ but not within paragraph 2A(1)(a), (b) or (c) ”.

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