

# EDUCATION ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 6: Academies

##### Academies: other provisions

##### *Schedule 14*

304. *Paragraph 1* of Schedule 14 replaces Schedule 1 to AA 2010 with a new Schedule which re-enacts and extends existing legislation and contains some new provisions. In particular, the new Schedule 1 incorporates and amends the remaining provisions of Schedule 35A to EA 1996 and provisions in the original Schedule 1 to AA 2010. Schedule 35A to the EA 1996 is repealed by *paragraph 16* of Schedule 14.
305. *Schedule 1* is divided into four parts, the first three parts reflecting the fact that land at a particular school or Academy may be held by any of the following: a local authority, a governing body, a foundation body or the trustees of a maintained school, or by any person holding land for an Academy.
306. Other than paragraph 16, Schedule 1 relates to land that is publicly owned or publicly funded as defined in paragraph 22(3) of the Schedule, but does not apply to land that is wholly privately owned.
307. *Part 1* of Schedule 1 concerns local authority land. It re-enacts and extends provisions in Schedule 35A to EA 1996 and in Schedule 1 to AA 2010, which this Schedule is replacing. It enables the Secretary of State to make a scheme to transfer an existing or former school's land (now including an Academy) from a local authority to a person concerned with the running of an Academy where the land is no longer needed for the school (paragraphs 1 and 3). It also enables the Secretary of State to make a scheme to transfer any local authority land that has been identified by the local authority as a possible site for a new school to a person concerned with the running of an Academy (paragraphs 2 and 3). *Part 1* also requires a local authority to seek the Secretary of State's consent to any proposed disposal or appropriation of existing or former school land and enables the Secretary of State to compulsorily purchase land back from a third party and transfer it to a person concerned with the running of an Academy if the land is sold in contravention of any requirement to seek his consent (paragraphs 4, 5, 6 and 7).
308. *Part 2* of Schedule 1 concerns publicly funded land held by governing bodies, foundation bodies or trustees of foundation or voluntary schools. It incorporates and amends some provisions from Schedule 1 to AA 2010, which this Schedule is replacing, and includes new provisions. *Part 2* enables the Secretary of State to make directions to transfer publicly funded land at foundation and voluntary schools to persons concerned with the running of Academies in the situations where such a school: converts to Academy status pursuant to an Academy order, is discontinued, or wishes to dispose of surplus land (paragraphs 10, 11 and 12). Provision is made for the payment of compensation in respect of any private share in the land. Paragraph 13 enables land and other property held by a governing body to transfer automatically to either the local

authority or, if the Secretary of State directs, to a person concerned with the running of an Academy on dissolution of the governing body pursuant to an Academy order.

309. [Part 3](#) of Schedule 1 concerns publicly funded land held for the purposes of an Academy. Paragraph 14 enables the Secretary of State to protect public investment in private land held for Academies. Paragraph 15 enables the Secretary of State to make a direction in respect of publicly funded land on the closure of an Academy, subject to the payment of compensation for any private share in the land. Paragraph 16 requires that where trustees of a maintained school retain land for the purposes of the successor Academy on conversion of any such school to Academy status, they are required to give a minimum period of two years' notice to the Academy proprietor if they wish to terminate the Academy's occupation of the land. If the land is publicly funded, the Secretary of State can make a direction in relation to the land, subject to the payment of compensation for any private share. Paragraph 17 requires a person who holds land for the purposes of an Academy to notify the Secretary of State if they wish to dispose of publicly funded land, and provides a power for the Secretary of State to make a direction in respect of the land, subject to the payment of compensation for any private share.
310. [Part 4](#) contains miscellaneous provisions designed to give full effect to the Schedule. In particular, paragraph 21 provides a regulation-making power which enables secondary legislation to give full effect to the provisions in the Schedule, and in particular the power to make schemes. Paragraph 22 contains a definition of publicly funded land for the purposes of the Schedule.
311. [Paragraphs 2 to 15](#) of Schedule 14 amend Schedule 22 to SSFA 1998 to ensure that surplus publicly funded land held by the governing body or trustees of a foundation or voluntary school may be made available for Academies.
312. Part A1 of Schedule 22 to SSFA 1998, which was inserted by Schedule 4 to EIA 2006, sets out a statutory procedure for the disposal of surplus publicly funded non-playing field land held by governing bodies, foundation bodies and trustees of foundations and voluntary schools.
313. [Paragraphs 2 to 11](#) of Schedule 14 amend part A1 of Schedule 22 to SSFA 1998 and provide that where a governing body, foundation body or trustees wish to dispose of publicly funded land they must first notify the Secretary of State, and must not take any further steps to dispose of the land without his consent. The Secretary of State then has the option of making a direction transferring the land to an Academy, under paragraph 12 of Schedule 1 to AA 2010 (as substituted by the Act). If he chooses not to make a direction then the governing body, foundation body or trustees of the school in question can proceed to dispose of the land under the provisions in Part A1 of Schedule 22 to SSFA 1998. [Paragraph 9](#) also amends paragraph A13(7) of Schedule 22 to SSFA 1998 so that a change of use of land by trustees is not to be treated as a disposal where the land will be used for an Academy (this provision previously provided that changes of use were not to be treated as disposals only where the land would continue to be used by a maintained school, and did not include a reference to Academies).
314. [Paragraph 13](#) amends paragraph A23 of Schedule 22 and provides that where a local authority wishes to apply to the adjudicator for the transfer to them of publicly funded land they think is no longer needed by a foundation or voluntary school, they must notify the Secretary of State of their intention, and take no further action until they have received a response. The Secretary of State may then decide to make a direction to transfer the land to an Academy under paragraph 12 of Schedule 1 to AA 2010 (as substituted by the Act), failing which the local authority can proceed with the application under the statutory procedure in Part A1 of Schedule 22 to SSFA 1998.
315. [Paragraph 14](#) amends paragraph 5 of Schedule 22 to SSFA 1998 (discontinuance of foundation, voluntary and foundation special schools) to add an additional power for the Secretary of State to make a direction under paragraph 11 of Schedule 1 to AA 2010, transferring the land to an Academy.

*These notes refer to the Education Act 2011 (c.21)  
which received Royal Assent on 15 November 2011*

316. *Paragraph 15* amends paragraph 7 of Schedule 22 to SSFA 1998 to enable the Secretary of State to direct that land or other property held by a governing body that is dissolving on discontinuance for reasons other than an Academy conversion is transferred to an Academy instead of a local authority.
317. *Paragraph 18* amends section 77 of SSFA 1998. Section 77 requires the Secretary of State's consent to be sought by local authorities, governing bodies or foundation bodies of maintained schools or trustees of foundation and voluntary schools (in the case of publicly funded land) where they propose to dispose or change the use of playing field land. The amendment in *paragraph 18* enables the Secretary of State to direct, on such an application for consent to dispose of or change the use of playing fields, that the land is transferred to a person concerned with the running of an Academy, subject to the payment of compensation for any private share in the land. *Paragraph 18* also now requires the Secretary of State's consent to be sought where the playing fields are proposed to be used for other educational purposes or recreational facilities.