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SCHEDULES

VALID FROM 01/09/2012

SCHEDULE 1

Section 4

REVIEW OF EXCLUSIONS FROM SCHOOLS IN ENGLAND: CONSEQUENTIAL AMENDMENTS

Local Government Act 1972 (c. 70)

- 1 In section 177 of the Local Government Act 1972 (provisions supplementary to provisions on allowances), in subsection (1A)—
- (a) before paragraph (c) insert—
 - “(ba) regulations made by virtue of section 51A(8) of the Education Act 2002 (allowances for exclusion review panels: England);”;
 - (b) in paragraph (c), for the words from “the Education Act” to the end substitute “ that Act (allowances for exclusion appeal panels: Wales); and ”.

Local Government Act 1974 (c. 7)

- 2 In section 25 of the Local Government Act 1974 (authorities subject to investigation), in subsection (5)(e)—
- (a) for “appeal” substitute “ review ”;
 - (b) for “section 52” substitute “ section 51A ”.
- 3 In section 31A of that Act (consideration of adverse reports), in subsection (3)(c), for “exclusion appeal panel” substitute “ exclusion review panel ”.

Tribunals and Inquiries Act 1992 (c. 53)

- 4 In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of the Council), in paragraph 15 (education), after subparagraph (a), insert—
- “(aa) exclusion review panels constituted in accordance with regulations under section 51A of the Education Act 2002;”.

EA 1996

- 5 EA 1996 is amended as follows.
- 6 In section 444ZA (application of section 444 to alternative educational provision), in subsection (1D), in paragraph (a), for “section 52” substitute “ section 51A ”.

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7 In Schedule 35B (meaning of “eligible child” for purposes of school travel arrangements), in paragraph 8(2)(b), for “section 52” substitute “ section 51A ”.

SSFA 1998

8 Section 87 of SSFA 1998 (no requirement to admit children permanently excluded from two or more schools) is amended as follows.

9 After subsection (3) insert—

“(3A) A child who has been permanently excluded from a school in England shall not be treated for the purposes of this section as having been so excluded if any of the following applies—

- (a) the child was reinstated as a pupil at the school following a direction from the responsible body—
 - (i) in accordance with regulations under subsection (3)(b) of section 51A of the Education Act 2002;
 - (ii) following a recommendation from the review panel that the responsible body reconsiders the matter under subsection (4)(b) of that section;
- (b) the child would have been reinstated as a pupil at the school following a direction from the responsible body as described in paragraph (a)(i) or (ii), if it had been practical for the responsible body to give such a direction;
- (c) the review panel has quashed a decision of the responsible body not to reinstate the child as a pupil at the school under subsection (4)(c) of section 51A of the Education Act 2002;
- (d) the child was so excluded at a time when the child had not attained compulsory school age.

(3B) In subsection (3A) “the responsible body” has the same meaning as in section 51A of the Education Act 2002.”

10 In subsection (4), in the opening words—

- (a) omit “However,”;
- (b) after “a school” insert “ in Wales ”.

Equality Act 2010 (c. 15)

11 Schedule 17 to the Equality Act 2010 (disabled pupils: enforcement) is amended as follows.

12 In the heading above paragraph 14, at the end insert “ : Wales ”.

13 In paragraph 14 (exclusions)—

- (a) in sub-paragraph (1), at the end insert “ that are made in relation to schools in Wales ”;
- (b) for sub-paragraph (4), substitute—

“(4) Appeal arrangements are arrangements under section 52(3) of the Education Act 2002 enabling an appeal to be made against an exclusion decision.”;

- (c) in sub-paragraph (5), omit paragraph (b).

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SCHEDULE 2

Section 11

ABOLITION OF THE GTCE: CONSEQUENTIAL AMENDMENTS

Amendments to THEA 1998

- 1 THEA 1998 is amended as follows.
- 2 In the heading to Chapter 1, for “Councils” substitute “ Council for Wales ”.
- 3 In the italic cross-heading above section 1, for “England” substitute “ Wales: aims and constitution ”.
- 4 In the italic cross-heading above section 2, for “England” substitute “ Wales ”.
- 5 In section 2, in the heading, for “General Teaching Council for England” substitute “ the Council ”.
- 6 In the italic cross-heading above section 8, at the beginning insert “ Establishment of ”.
- 7 In section 8 (the General Teaching Council for Wales)—
 - (a) in subsection (2), omit “as it has effect in relation to the Council,”;
 - (b) omit subsections (3) to (6);
 - (c) in the heading, at the beginning insert “ Establishment of ”.
- 8 In section 9 (functions of the General Teaching Council for Wales: general)—
 - (a) omit subsection (1);
 - (b) in subsection (2), for “the General Teaching Council for Wales” substitute “ the Council ”.
- 9 In section 12 (deduction of fees from salaries, etc)—
 - (a) in subsection (1)(b), omit “relevant”;
 - (b) in subsection (3), in paragraphs (b) and (c), omit “relevant”;
 - (c) in subsection (4), omit the definition of “relevant Council”.
- 10 In section 14 (supply of information relating to teachers: general)—
 - (a) for subsection (1) substitute—

“(1) The Secretary of State may supply the Council with such information relating to individual teachers as the Council may request for the purpose of carrying out any of the functions conferred on them by or under this Chapter or as the Secretary of State considers it to be necessary or desirable for them to have for the purposes of those functions.

(1A) The Welsh Ministers may supply the Council with such information relating to individual teachers as the Council may request for the purpose of carrying out any of the functions conferred on them by or under this Chapter or as the Welsh

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	Ministers consider it to be necessary or desirable for them to have for the purposes of those functions.”
	(b) in subsection (2), for “Each of those Councils” substitute “ The Council ”;
	(c) in subsection (3), for “either” substitute “ the ”;
	(d) omit subsection (4).
11	In section 15 (supply of information following dismissal, resignation, etc)—
	(a) omit subsection (2);
	(b) in subsection (3)—
	(i) omit the words from the beginning to “in Wales,”;
	(ii) for “the General Teaching Council for Wales” substitute “ the Council ”.
	(c) in subsection (5), in the definition of “relevant employer”, at the end of each of paragraphs (a), (b), (c) and (d) insert “ in Wales ”.
12	In section 15A (supply of information by contractor, agency, etc)—
	(a) in subsection (2), for “Subsections (3) and (4) apply” substitute “ Subsection (4) applies ”;
	(b) omit subsections (3), (5) and (7);
	(c) in subsection (4)—
	(i) omit the words from the beginning to “in Wales,”;
	(ii) for “the General Teaching Council for Wales” substitute “ the Council ”.
13	In the italic cross-heading above section 19, at the end insert “ : teachers in Wales ”.
14	In section 19 (requirement to serve induction period)—
	(a) in subsection (1), after “schools” insert “ in Wales ”;
	(b) in subsection (2)(i), for “either the Council or the General Teaching Council for Wales” substitute “ the Council ”;
	(c) in subsection (3)—
	(i) omit the words from the beginning to “established,”;
	(ii) for “one or both of those Councils (as appropriate)” substitute “ the Council ”;
	(d) in subsection (4)(b), omit “or the General Teaching Council for Wales”.
15	In section 42 (orders and regulations)—
	(a) omit subsection (3);
	(b) in subsection (9)—
	(i) omit the words from the beginning to “established,”;
	(ii) omit “to which the regulations will relate”.
16	(1) Schedule 1 is amended as follows.
	(2) In the title, for “England” substitute “ Wales ”.
	(3) In paragraph 2, omit sub-paragraph (3).
	(4) In paragraph 4(1)—
	(a) in paragraph (a), for “the Secretary of State” substitute “ they ”;
	(b) for paragraph (b) substitute—

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- “(b) shall, as regards any member in whose case they may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of that member as they may determine.”
- (5) For paragraph 4(2) substitute—
- “(2) If a person ceases to be a member of the Council and it appears to the Council that there are special circumstances which make it right that the person should receive compensation, the Council may make to that person a payment of such amount as they may determine.”
- (6) In paragraph 4(3), for “the Secretary of State” substitute “ they ”.
- (7) In paragraph 4(4), for “the Secretary of State” substitute “ they ”.
- (8) In paragraph 5, omit sub-paragraph (4).
- (9) In paragraph 6—
- (a) in sub-paragraph (1), omit “, with the consent of the Secretary of State,”;
- (b) in sub-paragraph (3), for the words following paragraph (b) substitute “ the Council may make provision for that person to continue to participate in that scheme, on such terms and conditions as they may determine, as if the person's service as a member were service as an employee; and any such provision shall be without prejudice to paragraph 4. ”
- (10) In paragraph 11, omit sub-paragraph (1).
- 17 In Schedule 2 (disciplinary powers of Council), in paragraph 7 (supplementary provisions) for sub-paragraph (2) substitute—
- “(2) Regulations may also make provision for securing that any prohibition order made by virtue of Schedule 11A to the Education Act 2002 in relation to a teacher in England has a corresponding effect in relation to Wales.”
- Amendments to other Education Acts*
- 18 In EA 1994, in section 18B (inspection of teacher training), in subsection (3) (advice from Chief Inspector), omit paragraph (c) (and the “or” preceding it).
- 19 (1) EA 2002 is amended as follows.
- (2) In section 132 (qualified teacher status), omit subsection (3) (consultation of GTCE).
- (3) In section 134 (requirement to be registered)—
- (a) in subsection (1)—
- (i) after “school” insert “ in Wales ”;
- (ii) after “General Teaching Council” insert “ for Wales ”;
- (b) in subsection (2), after “person” insert “ in Wales ”;
- (c) in subsection (3), after “qualified teacher” insert “ in Wales ”;
- (d) in the heading, at the end insert “ : teachers in Wales ”.
- (4) In section 145 (specification of qualification or course), in subsection (1)(c), omit “the General Teaching Council for England.”

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	(5) In Schedule 12 (the General Teaching Councils for England and Wales), in Part 1 (amendments to the Teaching and Higher Education Act 1998), omit paragraph 7 (amendment to section 9(1)).
20	In ESA 2008— <ul style="list-style-type: none"> (a) in section 130 (directions prohibiting participation in management: information), in subsection (5), omit “the General Teaching Council for England,”; (b) in Schedule 1 (minor and consequential amendments), in paragraph 23 (substitution of sections 167C and 167D of EA 2002), in the substituted section 167C, in subsection (5), omit “ the General Teaching Council for England, ”.
	<i>Other amendments</i>
21	In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2, omit “General Teaching Council for England.”
22	In Schedule 1 to the Superannuation Act 1972 (kinds of employment in relation to which superannuation schemes may be made), omit “General Teaching Council for England.”
23	In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) in Part 3, omit “Any member of the General Teaching Council for England in receipt of remuneration.”
24	In section 50 of the Employment Rights Act 1996 (right to time off for public duties), in subsection (9) (definition of “relevant education body”) omit paragraph (i) (but not the “or” following it).
25	In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 6 omit “The General Teaching Council for England.”
26	In section 343 of the Income Tax (Earnings and Pensions) Act 2003 (deductions allowed from earnings: professional membership fees), in the Table in subsection (2), in part 7 omit paragraph (a) (fee for registration by the GTCE).
27	(1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows. <ul style="list-style-type: none"> (2) In section 41 (registers: duty to refer), in the table in subsection (7), in entry 1, for the entry in column 2 substitute “ The General Teaching Council for Wales ”. (3) In section 45 (supervisory authorities: duty to refer), in subsection (7), after paragraph (a) insert— <ul style="list-style-type: none"> “(aza) the Secretary of State in respect of the Secretary of State's functions under sections 141B to 141E of the Education Act 2002; (azb) the Secretary of State in respect of the Secretary of State's functions under Chapter 1 of Part 4 of the Education and Skills Act 2008;”. (4) In Schedule 3 (barred lists), in paragraph 16 (representations), in sub-paragraph (4) <ul style="list-style-type: none"> (a) after “before” insert “ the Secretary of State in the exercise of the Secretary of State's functions under section 141B of the Education Act 2002, or in proceedings before ”; (b) omit paragraph (a).

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- (5) In Schedule 8 (transitional provision), in paragraph 2 (existing restrictions relating to children)—
- (a) in sub-paragraph (3), omit paragraphs (a) and (c);
 - (b) in sub-paragraph (4), for “(3)(c) and (d)” substitute “ (3)(d) ”;
 - (c) in sub-paragraph (7), for “(3)(c) and (d)” substitute “ (3)(d) ”.

VALID FROM 01/04/2012

SCHEDULE 3

Section 12

ABOLITION OF THE GTCE: TRANSFER SCHEMES

Staff transfer schemes

- 1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing—
- (a) for a designated employee of the GTCE to become a member of staff of the Secretary of State (and accordingly to become employed in the civil service of the state);
 - (b) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the GTCE to have effect as if they were the conditions of service as a member of the Secretary of State's staff;
 - (c) for the transfer to the Secretary of State of the rights, powers, duties and liabilities of the GTCE under or in connection with the employee's contract of employment;
 - (d) for anything done (or having effect as if done) before that transfer by or in relation to the GTCE in respect of such a contract or the employee to be treated as having been done by or in relation to the Secretary of State.
- (2) A staff transfer scheme may provide for a period before the employee became a member of the Secretary of State's staff to count as a period during which the employee was a member of the Secretary of State's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
- (3) A staff transfer scheme may provide for the employee not to become a member of the Secretary of State's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (4) A staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for an employee of the GTCE to become a member of the Secretary of State's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.

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Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the GTCE to the Secretary of State of designated property, rights or liabilities.
- (2) A property transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the GTCE in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the Secretary of State;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property transfer scheme include—
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.

Continuity

- 3 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the GTCE before the transfer takes effect.

Supplementary provision etc.

- 4 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Interpretation

- 5 In this Schedule—
- “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
- “the GTCE” means the General Teaching Council for England.

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SCHEDULE 4

Section 13

OFFENCE OF BREACH OF REPORTING RESTRICTIONS: APPLICATION TO PROVIDERS OF INFORMATION SOCIETY SERVICES

PROSPECTIVE

After Schedule 11A to EA 2002 (inserted by section 8), insert—

“SCHEDULE 11B

Section 141G

OFFENCE UNDER SECTION 141G: SUPPLEMENTARY PROVISIONS

Introduction

- 1 (1) This Schedule makes supplementary provision relating to an offence under section 141G (breach of reporting restrictions relating to alleged offences committed by teachers).
- (2) The purpose of this Schedule is to comply with Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (“the E-Commerce Directive”).

Domestic service providers: extension of liability

- 2 (1) This paragraph applies where a service provider is established in England and Wales (a “domestic service provider”).
- (2) Section 141G applies to a domestic service provider who—
 - (a) publishes information in breach of section 141F(3) in an EEA state other than the United Kingdom, and
 - (b) does so in the course of providing information society services, as it applies to a person who publishes such information in England and Wales.
- (3) In such a case—
 - (a) proceedings for the offence may be taken at any place in England and Wales, and
 - (b) the offence may for all incidental purposes be treated as having been committed at any such place.

Non-UK service providers: restriction on proceedings

- 3 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”).

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- (2) Proceedings for an offence under section 141G must not be brought against a non-UK service provider in respect of anything done in the course of the provision of information society services.

Exceptions for mere conduits

- 4 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in—
- (a) the provision of access to a communication network, or
 - (b) the transmission in a communication network of information provided by a recipient of the service,
- if the following condition is satisfied.
- (2) The condition is that the service provider does not—
- (a) initiate the transmission,
 - (b) select the recipient of the transmission, or
 - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1)—
- (a) the provision of access to a communication network, and
 - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

- 5 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not guilty of an offence under section 141G in respect of the automatic, intermediate and temporary storage of information so provided, if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
 - (b) the following conditions are satisfied.
- (3) The first condition is that the service provider does not modify the information.
- (4) The second condition is that the service provider complies with any conditions attached to having access to the information.
- (5) The third condition is that if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or

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(c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information, the service provider expeditiously removes the information or disables access to it.

Exception for hosting

- 6 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if the condition is met.
- (2) The condition is that—
- (a) the service provider had no actual knowledge when the information was provided that it contained offending material, or
 - (b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.
- (3) “Offending material” means material the publication of which constitutes an offence under section 141G.
- (4) This paragraph does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

- 7 (1) In this Schedule—
- “information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- “recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;
- “service provider” means a person providing an information society service.
- (2) For the purpose of construing references in this Schedule to a service provider who is established in England and Wales or in an EEA state other than the United Kingdom—
- (a) a service provider is established in England and Wales, or in an EEA state other than the United Kingdom, if the service provider—
 - (i) effectively pursues an economic activity using a fixed establishment in England and Wales, or in that EEA state, for an indefinite period, and

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- (ii) is a national of an EEA state or a company or firm mentioned in Article 48 of the EEC Treaty;
- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider's activities relating to that service.”

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SCHEDULE 5 Section 16

ABOLITION OF THE TDA: CONSEQUENTIAL AMENDMENTS

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VALID FROM 01/04/2012

SCHEDULE 6 Section 17

ABOLITION OF THE TDA: TRANSFER SCHEMES

Staff transfer schemes

1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing—

- (a) for a designated employee of the TDA to become a member of staff of the Secretary of State (and accordingly to become employed in the civil service of the state);
- (b) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the TDA to have effect as if they were the conditions of service as a member of the Secretary of State's staff;
- (c) for the transfer to the Secretary of State of the rights, powers, duties and liabilities of the TDA under or in connection with the employee's contract of employment;
- (d) for anything done (or having effect as if done) before that transfer by or in relation to the TDA in respect of such a contract or the employee to be treated as having been done by or in relation to the Secretary of State.

(2) A staff transfer scheme may provide for a period before the employee became a member of the Secretary of State's staff to count as a period during which the employee was a member of the Secretary of State's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).

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- (3) A staff transfer scheme may provide for the employee not to become a member of the Secretary of State's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (4) A staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for an employee of the TDA to become a member of the Secretary of State's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.

Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the TDA to the Secretary of State of designated property, rights or liabilities.
- (2) A property transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the TDA in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the Secretary of State;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.

Continuity

- 3 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the TDA before the transfer takes effect.

Supplementary provision etc.

- 4 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Interpretation

- 5 In this Schedule—
 - “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
 - “the TDA” means the Training and Development Agency for Schools.

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SCHEDULE 7

Section 21

THE CHIEF REGULATOR OF QUALIFICATIONS AND EXAMINATIONS

Amendments to Schedule 9 to ASCLA 2009

1 Schedule 9 to ASCLA 2009 (the Office of Qualifications and Examinations Regulation) is amended as follows.

2 (1) Paragraph 2 (membership) is amended as follows.

(2) In sub-paragraph (1)—

(a) before paragraph (a), insert—

“(za) a member appointed by Her Majesty by Order in Council as the chief executive of Ofqual.”;

(b) in paragraph (a), for “Her Majesty by Order in Council to chair Ofqual,” substitute “the Secretary of State to chair Ofqual (“the chair”), and”;

(c) omit paragraph (c) and the “and” immediately before it.

(3) In sub-paragraph (2), for “to chair” substitute “as the chief executive of”;

(4) In sub-paragraphs (3) to (6), for “Chief Regulator”, wherever occurring, substitute “chair”.

3 (1) Paragraph 3 (the Chief Regulator) is amended as follows.

(2) In sub-paragraph (6), for “Chief Regulator” substitute “the chief executive of Ofqual (whether before or after the relevant commencement date)”.

(3) After sub-paragraph (6) insert—

“(7) The relevant commencement date” means the date on which Schedule 7 to the Education Act 2011 comes fully into force.”

4 After paragraph 3 insert—

“The chair

3A (1) The chair holds and vacates office in accordance with the terms of the appointment.

(2) Those terms are to be determined by the Secretary of State, subject to the following provisions of this Schedule.

(3) The chair must not be appointed for a term of more than 5 years.

(4) The chair may resign from office at any time by giving written notice to the Secretary of State.

(5) The Secretary of State may remove the chair from office on either of the following grounds—

(a) inability or unfitness to carry out the duties of the office;

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	(b) absence from Ofqual's meetings for a continuous period of more than 6 months without Ofqual's permission.
	(6) The previous appointment of a person to chair Ofqual (whether before or after the relevant commencement date) does not affect the person's eligibility for re-appointment.
	(7) "The relevant commencement date" means the date on which Schedule 7 to the Education Act 2011 comes fully into force."
5	In paragraph 4 (the deputy and other ordinary members: tenure), in sub-paragraphs (7) to (11), for "Chief Regulator", wherever occurring, substitute "chair".
6	In the heading before paragraph 5, for " <i>Chief Regulator and ordinary members</i> " substitute " <i>members</i> ".
7	(1) Paragraph 5 (remuneration of members of Ofqual) is amended as follows. (2) In sub-paragraph (1), for "Chief Regulator and any of the ordinary members" substitute "members of Ofqual". (3) In sub-paragraph (2), for "current or former Chief Regulator or" substitute "person who is or has been the chair or an". (4) In sub-paragraph (3), for "Chief Regulator or an ordinary member" substitute "a member of Ofqual". (5) In sub-paragraph (4), for "this paragraph" substitute "sub-paragraph (1), (2) or (3)". (6) After sub-paragraph (4) insert— “(5) Service as the Chief Regulator is one of the kinds of service to which a scheme under section 1 of the Superannuation Act 1972 (superannuation schemes as respects civil servants etc) can apply. (6) Ofqual must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (5) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.”
8	For the heading before paragraph 6 substitute " <i>Staff</i> ".
9	(1) Paragraph 6 (staff of Ofqual) is amended as follows. (2) Omit sub-paragraphs (1) to (3). (3) In sub-paragraphs (4) and (5)(a), omit "other".
	<i>Consequential amendments</i>
10	In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1 of that Act), under the heading "Offices" at the appropriate place insert "The Chief Regulator of Qualifications and Examinations."
11	In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), after "The Chief Regulator of Qualifications

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12	<p>and Examinations” insert “ , the chair of the Office of Qualifications and Examinations Regulation ”.</p> <p>In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), after “The Chief Regulator of Qualifications and Examinations” insert “ , the chair of the Office of Qualifications and Examinations Regulation ”.</p>
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SCHEDULE 8

Section 26

ABOLITION OF THE QCDA: CONSEQUENTIAL AMENDMENTS

VALID FROM 01/04/2012	
1	<p style="text-align: center;"><i>Public Records Act 1958 (c. 51)</i></p> <p>In paragraph 3 of Schedule 1 to the Public Records Act 1958, in Part 2 of the Table (definition of public records: other establishments and organisations) omit “Qualifications and Curriculum Development Agency.”</p>
VALID FROM 01/04/2012	
2	<p style="text-align: center;"><i>Parliamentary Commissioner Act 1967 (c. 13)</i></p> <p>In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) omit “Qualifications and Curriculum Development Agency.”</p>
VALID FROM 01/04/2012	
3	<p style="text-align: center;"><i>Superannuation Act 1972 (c. 11)</i></p> <p>In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1 of that Act) omit “The Qualifications and Curriculum Development Agency.”</p>
VALID FROM 01/04/2012	
4	<p style="text-align: center;"><i>House of Commons Disqualification Act 1975 (c. 24)</i></p> <p>In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) omit the entry relating to members of the Qualifications and Curriculum Development Agency in receipt of remuneration.</p>

Status: Point in time view as at 01/02/2012.

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VALID FROM 01/04/2012

EA 1996

- 5 EA 1996 is amended as follows.
- 6 In section 391 (functions of religious education advisory councils) for subsection (10) substitute—
- “(10) A council for an area in Wales must send a copy of each report published by them under subsection (6) to the Welsh Ministers.”
- 7 In section 408(1)(a) (provision of information relevant for particular purposes) for “Parts 7 and 8” substitute “ Part 7 ”.

VALID FROM 01/04/2012

EA 1997

- 8 Section 35 of EA 1997 (transfer of staff to QCDA) is repealed.

VALID FROM 01/04/2012

LSA 2000

- 9 In section 98 of LSA 2000 (approved qualifications: England), in subsections (7) and (8), omit “the Qualifications and Curriculum Development Agency or”.

VALID FROM 01/04/2012

Freedom of Information Act 2000 (c. 36)

- 10 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit “The Qualifications and Curriculum Development Agency.”

EA 2002

- 11 EA 2002 is amended as follows.

Commencement Information

- II** Sch. 8 para. 11 in force at 15.1.2012 for specified purposes by S.I. 2012/84, art. 2

Status: Point in time view as at 01/02/2012.

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VALID FROM 01/04/2012

- 12 In section 85(9) (curriculum requirements for the fourth key stage: duty to have regard to guidance) for “Qualifications and Curriculum Development Agency” substitute “ Secretary of State ”.

VALID FROM 01/04/2012

- 13 In section 87(7) (establishment of the National Curriculum for England by order: persons on whom assessment arrangements order may confer or impose functions) omit paragraph (c) (but not the “and” immediately after it).

VALID FROM 01/04/2012

- 14 (1) Section 90 (development work and experiments) is amended as follows.
- (2) In subsection (3)—
- (a) after paragraph (a) insert “ or ”;
- (b) omit paragraph (c) (and the “or” immediately before it).
- (3) In subsection (4) omit the words after “by the governing body”.
- (4) In subsection (5), for paragraph (b) substitute—
- “(b) a person designated for the purposes of this subsection by the Secretary of State.”
- (5) In subsection (5A) for “the reviewing body” substitute “ a person designated for the purposes of this subsection by the Secretary of State ”.
- (6) Omit subsection (5B).
- (7) In subsection (5C) for “subsection (5B)” substitute “ subsection (5)(b) or (5A) ”.

- 15 For section 96 substitute—

“96 Procedure for making certain orders and regulations

- (1) This section applies where the Secretary of State proposes to make—
- (a) an order under section 82(4), 84(6) or 87(3)(a) or (b), or
- (b) regulations under section 91.
- (2) The Secretary of State must give notice of the proposal to such of the following as appear to the Secretary of State to be concerned with the proposal—
- (a) associations of local authorities,
- (b) bodies representing the interests of school governing bodies, and
- (c) organisations representing school teachers.
- (3) The Secretary of State must also give notice of the proposal to any other persons with whom consultation appears to the Secretary of State to be desirable.

Status: Point in time view as at 01/02/2012.

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- (4) The Secretary of State must give the bodies and other persons mentioned in subsections (2) and (3) a reasonable opportunity of submitting evidence and representations as to the issues arising from the proposal.
- (5) After considering any evidence and representations submitted in pursuance of subsection (4), the Secretary of State must publish, in such manner as, in the Secretary of State's opinion, is likely to bring them to the notice of persons with a special interest in education—
 - (a) a draft of the proposed order or regulations and any associated document, and
 - (b) a summary of the views expressed during the consultation.
- (6) The Secretary of State must allow a period of at least one month beginning with the publication of the draft of the proposed order or regulations for the submission of any further evidence and representations as to the issues arising.
- (7) When the period allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.”

Commencement Information

12 Sch. 8 para. 15 in force at 15.1.2012 by S.I. 2012/84, art. 2

VALID FROM 01/04/2012

Childcare Act 2006 (c. 21)

- 16 The Childcare Act 2006 is amended as follows.
- 17 In section 42(2) (persons on whom order specifying assessment arrangements may confer or impose functions) omit paragraph (d) (but not the “and” immediately after it).
- 18 (1) Section 46 (power to enable exemptions from learning and development requirements to be conferred) is amended as follows.
- (2) In subsection (1B) for “the reviewing body” substitute “ a person designated by the Secretary of State for the purposes of this subsection ”.
 - (3) Omit subsection (1C).
 - (4) In subsection (1D) for “subsection (1C)” substitute “ subsection (1B) ”.

VALID FROM 01/04/2012

EIA 2006

- 19 EIA 2006 is amended as follows.
- 20 In section 74(1) (curriculum requirements for the fourth key stage)—

Status: Point in time view as at 01/02/2012.

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- (a) in the new section 85 to be inserted into EA 2002, in subsection (6) for “Qualifications and Curriculum Authority” substitute “ Secretary of State ”;
- (b) in the new section 85A to be inserted into that Act, in subsection (5) omit “or the Qualifications and Curriculum Authority”.

VALID FROM 01/04/2012

Safeguarding Vulnerable Groups Act 2006 (c. 47)

- 21 In section 21(10) of the Safeguarding Vulnerable Groups Act 2006 (controlled activity relating to children) omit paragraph (d).

ASCLA 2009

- 22 ASCLA 2009 is amended as follows.

Commencement Information

- I3** Sch. 8 para. 22 in force at 15.1.2012 for specified purposes by S.I. 2012/84, art. 2

VALID FROM 01/04/2012

- 23 In section 129(4) (persons who provide information to which Ofqual required to have regard) omit paragraph (a).

VALID FROM 01/04/2012

- 24 Section 173 and Schedule 10 (QCDA staff and property transfer schemes) are repealed.

VALID FROM 01/04/2012

- 25 In paragraph 8 of Schedule 5 (learning aims for persons aged 19 or over: persons who provide advice or information to which Secretary of State may have regard) omit paragraph (b) (but not the “or” immediately after it).

- 26 In consequence of the amendments made by the other provisions of this Schedule, in Schedule 12 (Ofqual and the QCDA: minor and consequential amendments), omit the following provisions: paragraphs 1, 2(3), 3, 4, 5(2), 7, 10, 20, 30, 33, 34, 36(2), 37 and 43.

Commencement Information

- I4** Sch. 8 para. 26 in force at 15.1.2012 for specified purposes by S.I. 2012/84, art. 2

Status: Point in time view as at 01/02/2012.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 19 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)

VALID FROM 01/04/2012

SCHEDULE 9

Section 27

ABOLITION OF THE QCDA: TRANSFER SCHEMES

Staff transfer schemes

- 1
- (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing—
 - (a) for a designated employee of the QCDA to become a member of staff of Ofqual or the Secretary of State (“the Crown employer”) (and accordingly to become employed in the civil service of the state);
 - (b) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the QCDA to have effect as if they were the conditions of service as a member of the Crown employer's staff;
 - (c) for the transfer to the Crown employer of the rights, powers, duties and liabilities of the QCDA under or in connection with the employee's contract of employment;
 - (d) for anything done (or having effect as if done) before that transfer by or in relation to the QCDA in respect of such a contract or the employee to be treated as having been done by or in relation to the Crown employer.
 - (2) A staff transfer scheme may provide for a period before the employee became a member of the Crown employer's staff to count as a period during which the employee was a member of the Crown employer's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
 - (3) A staff transfer scheme may provide for the employee not to become a member of the Crown employer's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
 - (4) A staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
 - (5) A staff transfer scheme may provide for an employee of the QCDA to become a member of the Crown employer's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.

Property transfer schemes

- 2
- (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the QCDA of designated property, rights or liabilities of the QCDA to Ofqual or the Secretary of State.
 - (2) A property transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;

Status: Point in time view as at 01/02/2012.

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(b)	provide for anything done by or in relation to the QCDA in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the person to whom the property, rights or liabilities in question are transferred;
(c)	apportion property, rights and liabilities;
(d)	make provision about the continuation of legal proceedings.
(3)	The things that may be transferred by a property transfer scheme include—
(a)	property, rights and liabilities that could not otherwise be transferred;
(b)	property acquired, and rights and liabilities arising, after the making of the scheme.
<i>Continuity</i>	
3	A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the QCDA before the transfer takes effect.
<i>Supplementary provision etc.</i>	
4	A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.
<i>Interpretation</i>	
5	In this Schedule—
	“designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
	“Ofqual” means the Office of Qualifications and Examinations Regulation;
	“the QCDA” means the Qualifications and Curriculum Development Agency.

SCHEDULE 10

Section 34

SCHOOL ADMISSIONS: CONSEQUENTIAL AMENDMENTS

Amendments consequential on the amendments to section 85A (admission forums)

- 1 (1) Part 3 of SSFA 1998 (school admissions) is amended as follows.
- (2) Section 85B (functions of admission forums in relation to Academies) is repealed.
- (3) In section 88F (sections 88C to 88E: supplementary), in subsection (3), omit paragraph (f) (but not the “and” following it).
- (4) In section 88Q (reports under section 88P: provision of information), in subsection (2), omit paragraph (b).

Status: Point in time view as at 01/02/2012.

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Commencement Information

I5 Sch. 10 para. 1 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 2 In EA 2002, section 66 (insertion of section 85B of SSFA 1998: admissions forums in relation to Academies) is repealed.

Commencement Information

I6 Sch. 10 para. 2 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 3 In EIA 2006, in section 41 (role of admissions forums), omit subsections (1) to (6) (amendments to section 85A of SSFA 1998).

Commencement Information

I7 Sch. 10 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3

Amendments consequential on the repeal of section 88J of SSFA 1998 (school adjudicators)

- 4 (1) Part 3 of SSFA 1998 (school admissions) is amended as follows.
- (2) In section 88K (sections 88H to 88J: supplementary)—
- (a) in subsection (1)—
 - (i) at the end of paragraph (a), insert “ or ”;
 - (ii) omit paragraph (c) (and the “or” preceding it);
 - (b) for subsection (3), substitute—
 - “(3) Where the adjudicator makes a decision mentioned in subsection (1), the adjudicator must publish a report containing—
 - (a) the adjudicator's decision on the objection or (as the case may be) on whether the admission arrangements conform with the requirements relating to admission arrangements, and
 - (b) the reasons for that decision.”;
 - (c) in subsection (4)(a)(ii), for “to 88J” substitute “, 88I ”;
 - (d) in subsection (5), for “sections 88I and 88J” substitute “ section 88I ”;
 - (e) in the heading, for “to 88J” substitute “ and 88I ”.
- (3) Section 88L (restriction on alteration of admission arrangements following adjudicator's decision) is repealed.

Commencement Information

I8 Sch. 10 para. 4 in force at 1.2.2012 by S.I. 2012/84, art. 3

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SCHEDULE 11

Section 37

ESTABLISHMENT OF NEW SCHOOLS

Amendments to Part 2 of EIA 2006

- 1 Part 2 of EIA 2006 (establishment, discontinuance and alteration of schools) is amended as follows.

Commencement Information

I9 Sch. 11 para. 1 in force at 1.2.2012 for specified purposes by S.I. 2012/84, art. 3 (with art. 4)

- 2 Before section 7 insert—

Requirement to seek proposals for establishment of new Academies

- “6A (1) If a local authority in England think a new school needs to be established in their area, they must seek proposals for the establishment of an Academy.
- (2) The local authority must specify a date by which any proposals sought under subsection (1) must be submitted to them.
- (3) After the specified date, the local authority must notify the Secretary of State—
- (a) of the steps they have taken to seek proposals for the establishment of an Academy, and
 - (b) of any proposals submitted to them as a result before the specified date, or of the fact that no such proposals have been submitted to them before that date.
- (4) A notification under subsection (3) must—
- (a) identify a possible site for the Academy, and
 - (b) specify such matters as may be prescribed.”

Commencement Information

I10 Sch. 11 para. 2 in force at 1.2.2012 for specified purposes by S.I. 2012/84, art. 3 (with art. 4)

- 3 In section 7 (invitation for proposals for establishment of new schools)—
- (a) in subsection (1), after “may” insert “ with the consent of the Secretary of State ”;
 - (b) in subsection (5), omit paragraph (b) and the “and” immediately before it;
 - (c) omit subsection (5A);
 - (d) in subsection (6), insert “ and ” at the end of paragraph (a) and omit paragraph (c) and the “and” immediately before it.

Commencement Information

I11 Sch. 11 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

Status: Point in time view as at 01/02/2012.

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4 After section 7 insert—

“7A Withdrawal of notices under section 7

- (1) This section applies where a local authority have published a notice under section 7.
- (2) At any time before the date specified in the notice—
 - (a) the local authority may withdraw it, with the consent of the Secretary of State, or
 - (b) the Secretary of State may direct the local authority to withdraw it.”

Commencement Information

I12 Sch. 11 para. 4 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

5 Section 8 (proposals under section 7 relating to community or community special schools) is repealed.

Commencement Information

I13 Sch. 11 para. 5 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

6 (1) Section 10 (publication of proposals with consent of Secretary of State) is amended as follows.

- (2) In subsection (1), for the words from “(otherwise” to the end substitute “a new community, community special, foundation or foundation special school, which—
 - (a) is not to be one providing education suitable only to the requirements of persons above compulsory school age, and
 - (b) is to replace one or more maintained schools, except where section 11(A2) applies or in a case within section 11(A3).”
- (3) In subsection (2)—
 - (a) after “voluntary” insert “ controlled ”;
 - (b) in paragraph (b), for “(2)(b) or (c)” substitute “ (2) ”.

Commencement Information

I14 Sch. 11 para. 6 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

7 (1) Section 11 (publication of proposals to establish maintained schools: special cases) is amended as follows.

(2) Before subsection (1) insert—

- “(A1) Subsection (A2) applies where a local authority in England publish a notice under section 7 (notice inviting proposals for establishment of new schools), and—
 - (a) no proposals are made pursuant to the notice, or

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- (b) proposals are made pursuant to the notice but none of the proposals are approved under Schedule 2 or result in Academy arrangements being entered into.
- (A2) The local authority may publish under this section proposals of their own to establish a new community, community special, foundation or foundation special school, which is not to be one providing education suitable only to the requirements of persons above compulsory school age.
- (A3) Where a local authority in England propose to establish a new community, community special, foundation or foundation special school, which—
- (a) is to be a primary school, and
 - (b) is to replace a maintained infant school and a maintained junior school,
- the authority must publish their proposals under this section.”
- (3) After subsection (1) insert—
- “(1A) Where any persons (“proposers”) propose to establish a new voluntary aided school in England, they may publish their proposals under this section.”
- (4) In subsection (2)—
- (a) after “voluntary” insert “ controlled ”;
 - (b) before paragraph (b) insert—
 - “(aa) is to replace one or more foundation or voluntary schools which have a religious character,”.
- (5) After subsection (2) insert—
- “(2A) For the purposes of subsection (2)(aa), a new foundation or voluntary controlled school replaces a foundation or voluntary school which has a religious character if it is proposed that the new school—
- (a) should have the same religious character,
 - (b) should have a different religious character, or
 - (c) should not have a religious character.”
- (6) In subsection (3), after “voluntary” insert “ controlled ”.
- (7) In subsection (7), after “subsection” insert “ (1A) or ”.
- (8) For subsection (9) substitute—
- “(9) In this section—
- “maintained infant school” means a maintained school that provides primary education suitable to the requirements of children of compulsory school age who have not attained the age of 8;
 - “maintained junior school” means a maintained school that provides primary education suitable to the requirements of junior pupils who have attained the age of 7;
 - “non-maintained special school” means a school which is approved under section 342 of EA 1996.”

Status: Point in time view as at 01/02/2012.

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Commencement Information

I15 Sch. 11 para. 7 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

- 8 In section 11A(1) (restriction on power of governing body to make proposals), for “11(2)” substitute “ 11(1A) or (2) ”.

Commencement Information

I16 Sch. 11 para. 8 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

- 9 In section 12 (establishment of school as a federated school), in subsection (1), after “new” insert “ maintained ”.

Commencement Information

I17 Sch. 11 para. 9 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

- 10 (1) Schedule 2 (consideration, approval and implementation of proposals for establishment or discontinuance of schools in England) is amended as follows.

- (2) After paragraph 3 insert—

“ *“Academy proposals” and “non-Academy proposals”* ”

- 3A In this Schedule—

- (a) “Academy proposals” means proposals under section 7 for the establishment of an Academy, and
(b) “non-Academy proposals” means proposals under section 7 for the establishment of a school falling within subsection (2)(a) of that section.”

- (3) In paragraph 4(a) (references to persons by whom proposals under section 7 are made), omit “or in the case of proposals published by the relevant authority under subsection (5)(b) of that section, by the relevant authority,”.

- (4) In paragraph 5(b) (requirement to forward objections and comments made in relation to proposals)—

- (a) for “referred to” substitute “ to be considered by the Secretary of State or ”;
(b) after “forward to” insert “ the Secretary of State or (as the case may be) ”.

- (5) In the heading to Part 2, omit “by Local Authority or Adjudicator”.

- (6) For the heading before paragraph 6 substitute “ *Consideration of proposals* ”.

- (7) Before paragraph 6 insert—

“5A(1) Academy proposals do not require consideration under paragraph 8 (see paragraph 7A instead).

- (2) If proposals under section 7 consist wholly of non-Academy proposals, the proposals require consideration under paragraph 8.

Status: Point in time view as at 01/02/2012.

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- (3) If proposals under section 7 include both Academy proposals and non-Academy proposals, the non-Academy proposals do not require consideration under paragraph 8 unless and until paragraph 7A(5) or (6) applies.”
- (8) In paragraph 6 (proposals under section 7, 10 or 11 requiring consideration under paragraph 8), omit “7,”.
- (9) After paragraph 7 insert—
- “7A (1) This paragraph applies where proposals under section 7 consist of or include Academy proposals.
- (2) The Secretary of State must decide whether to enter into Academy arrangements as a result of any of the Academy proposals.
- (3) The Secretary of State must notify the relevant authority of a decision under sub-paragraph (2).
- (4) Sub-paragraphs (5) and (6) apply where the proposals under section 7 include non-Academy proposals.
- (5) If the Secretary of State decides not to enter into Academy arrangements as a result of any of the Academy proposals, the non-Academy proposals require consideration under paragraph 8.
- (6) In any other case, the Secretary of State may direct that all or any of the non-Academy proposals require consideration under paragraph 8.”
- (10) Omit the heading before paragraph 8.
- (11) In paragraph 9 (consideration of proposals that are related to other proposals), for sub-paragraph (2) substitute—
- “(2) Where proposals within sub-paragraph (2A) appear to the relevant authority to be related to other proposals within that sub-paragraph that have not yet been determined, the authority must consider the proposals together.
- (2A) The proposals within this sub-paragraph are—
- (a) proposals under section 7 that require consideration by the authority under paragraph 8;
- (b) proposals under section 10, 11 or 15.”
- (12) In paragraph 10(1) (duty to refer to adjudicator certain proposals made by or involving relevant authority), for paragraph (a) substitute—
- “(a) all the proposals published under section 7 in response to a notice under that section and which—
- (i) would otherwise require consideration by the authority under paragraph 8, and
- (ii) consist of or include proposals which relate to the establishment of a foundation school with a foundation falling within sub-paragraph (2),”.
- (13) In paragraph 12 (duty to refer proposals to adjudicator in pursuance of direction of Secretary of State)—
- (a) in sub-paragraph (1)(a)—

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- (i) after “section 7” insert “ and which require consideration under paragraph 8 ”;
 - (ii) after “determined by the authority” insert “ under that paragraph ”;
 - (b) in sub-paragraph (1)(b), after “that section” insert “ and which require consideration under paragraph 8 , ”;
 - (c) omit sub-paragraphs (2) and (3).
- (14) In paragraph 13 (duty to refer proposals to adjudicator where determination delayed), in paragraph (a), after “section 7” insert “ and which require consideration under paragraph 8 ”.
- (15) Omit paragraph 18 and the heading before it (consultation in respect of proposals to establish Academy).
- (16) In paragraph 19(4) (determination whether or not to implement proposals under section 15 not requiring consideration under paragraph 8)—
- (a) after paragraph (a) insert—
 - “(aa) proposals published under section 7 that require consideration under paragraph 8 and are not yet determined,”;
 - (b) in paragraph (b), omit “7”.
- (17) Omit paragraph 27 (proposals relating to Academy: implementation).

Commencement Information

I18 Sch. 11 para. 10 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

Other amendments

- 11 In Schedule 2 to AA 2010 (Academies: amendments), omit paragraph 22.

Commencement Information

I19 Sch. 11 para. 11 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

VALID FROM 01/04/2012

SCHEDULE 12

Section 49

FURTHER EDUCATION INSTITUTIONS: AMENDMENTS

Status: Point in time view as at 01/02/2012.

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VALID FROM 01/04/2012

SCHEDULE 13

Section 54

16 TO 19 ACADEMIES AND ALTERNATIVE PROVISION
ACADEMIES: CONSEQUENTIAL AMENDMENTS

SCHEDULE 14

Section 63

ACADEMIES: LAND

Schedule 1 to AA 2010

1 For Schedule 1 to AA 2010 (Academies: land) substitute—

“SCHEDULE 1

Section 13

ACADEMIES: LAND

PART 1

LAND HELD BY A LOCAL AUTHORITY

*Transfer scheme where land ceases to be used
for purposes of a school or 16 to 19 Academy*

- 1 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met.
- (2) The requirements are as follows—
 - (a) a local authority holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) at any time in the period of eight years ending with the day on which the scheme is made the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy;
 - (c) at the time the scheme is made the land is no longer used for the purposes of the school or 16 to 19 Academy mentioned in paragraph (b) or the Secretary of State thinks it is about to be no longer so used.
- (3) The scheme must meet the requirements in paragraph 3(1).

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Transfer scheme following proposals for establishment of new Academy

- 2 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met.
- (2) The requirements are as follows—
- (a) a local authority holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) the land forms the whole or part of a site specified in a notification given to the Secretary of State under section 6A of EIA 2006, or a notice published under section 7 of that Act, (proposals for new schools) as a possible site for a new school;
 - (c) before making the scheme, the Secretary of State consulted the authority.
- (3) The scheme must meet the requirements in paragraph 3(1).

Transfer schemes under paragraphs 1 and 2: general

- 3 (1) These requirements must be met as regards a scheme under paragraph 1 or 2—
- (a) the scheme must provide for a transfer of the land or such part of it as is specified in the scheme;
 - (b) the scheme must specify whether the transfer is the transfer of a freehold or leasehold interest in the land or the grant of a lease in respect of the land (see paragraph 22(4));
 - (c) the transfer must be to a person who is specified in the scheme and is concerned with the running of an Academy;
 - (d) the transfer must be made to the transferee for the purposes of the Academy;
 - (e) in the case of a scheme under paragraph 2, the Academy must have been the subject of proposals under section 6A or 7 of EIA 2006;
 - (f) the scheme must make provision about the transfer to the transferee of any right or liability held by the local authority as holder of the land or specified part concerned.
- (2) In sub-paragraph (1) the reference to a right or liability—
- (a) includes a reference to a right or liability as a trustee, but
 - (b) excludes a reference to a liability in respect of the principal of or interest on a loan.
- (3) A scheme may include incidental, consequential, supplemental and transitional provision.
- (4) A scheme under paragraph 1 must be so expressed that it does not come into force while the land concerned is used for the purposes of the school or 16 to 19 Academy mentioned in paragraph 1(2)(b).
- (5) A scheme comes into force—
- (a) on the day it specifies for it to come into force, or
 - (b) on the day it otherwise identifies as the day for it to come into force.

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- (6) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the land, rights and liabilities to which it applies.
- (7) A transfer made by virtue of a scheme is binding on all persons even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

*Restriction on disposal of land held by local authority
for purposes of a school or 16 to 19 Academy*

- 4 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a local authority,
 - (b) the authority proposes to make a disposal in respect of the land, and
 - (c) at any time in the period of eight years ending with the day on which the disposal is proposed to be made, the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy.
- (2) Unless the Secretary of State consents, the authority must not make the disposal.
- (3) Sub-paragraph (2) does not apply to a disposal made in pursuance of a contract made, or option granted, before 26 July 2002.
- (4) A disposal is not invalid only because it is made in contravention of sub-paragraph (2).
- (5) A person acquiring land, or entering into a contract to acquire it, is not to be concerned to enquire whether the consent required by sub-paragraph (2) has been given.
- 5 (1) This paragraph applies if a local authority has made a disposal in contravention of paragraph 4(2).
- (2) In a case where the authority has made a disposal within the meaning of this Schedule because it has granted an option (see paragraph 22(5)(d)), the Secretary of State may by notice served on the option holder repudiate the option at any time before it is exercised.
- (3) In a case where the authority has made a disposal within the meaning of this Schedule because it has entered into a contract to dispose of land (see paragraph 22(5)(c)), the Secretary of State may by notice served on the other party to the contract repudiate it at any time before a conveyance of the land is executed.
- (4) A repudiation under sub-paragraph (2) or (3) has effect—
 - (a) when the notice is served, and
 - (b) as if the repudiation were made by the authority.
- (5) In a case where the land has been transferred (whether or not in pursuance of an option or contract falling within sub-paragraph (2) or (3)) the Secretary of State may purchase the land compulsorily.
- (6) The Acquisition of Land Act 1981 applies in relation to the compulsory purchase of land under sub-paragraph (5).

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- (7) On completion of a compulsory purchase of land under sub-paragraph (5) the Secretary of State must transfer it to a person concerned with the running of an Academy.
- (8) If the Secretary of State acquires land by compulsory purchase under sub-paragraph (5), the Secretary of State is entitled to recover from the authority an amount equal to the aggregate of—
 - (a) the compensation agreed or awarded in respect of the purchase,
 - (b) any interest payable by the Secretary of State in respect of the compensation, and
 - (c) the costs and expenses incurred by the Secretary of State in connection with the making of the compulsory purchase order.
- (9) The authority must provide the Secretary of State with such information as the Secretary of State may require it to provide in connection with a compulsory purchase under sub-paragraph (5).

Restriction on appropriation of land held by local authority for purposes of a school or 16 to 19 Academy

- 6 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a local authority,
 - (b) the authority proposes to make an appropriation of the land under section 122 of the Local Government Act 1972, and
 - (c) at any time in the period of eight years ending with the day on which the appropriation is proposed to be made the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy.
- (2) Unless the Secretary of State consents, the authority must not make the appropriation.
- 7 (1) This paragraph applies if a local authority has made an appropriation in contravention of paragraph 6(2).
- (2) The Secretary of State may purchase the land concerned compulsorily.
- (3) Sub-paragraphs (6) to (9) of paragraph 5 apply to a compulsory purchase of land under sub-paragraph (2) as they apply to a compulsory purchase of land under paragraph 5(5).

Class consents

- 8 For the purposes of paragraphs 4(2) and 6(2), the consent of the Secretary of State—
 - (a) may be given in relation to a particular case or class of case, and
 - (b) may be given subject to conditions.

Duty to inform Secretary of State on proposed change of use of land used for purposes of a school or 16 to 19 Academy

- 9 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a local authority,

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- (b) the authority proposes to change the use of the land in such a way that (were the change made) the land would cease to be capable of use wholly or mainly for the purposes of a school or a 16 to 19 Academy, and
 - (c) at any time in the period of eight years ending with the date of the proposed change of use the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy.
- (2) The authority must inform the Secretary of State of the proposal.

PART 2

LAND HELD BY A GOVERNING BODY, A FOUNDATION BODY OR TRUSTEES

Power of Secretary of State to make direction where Academy order made

- 10 (1) This paragraph applies where—
- (a) an Academy order has effect in respect of—
 - (i) a voluntary school,
 - (ii) a foundation school, or
 - (iii) a foundation special school, and
 - (b) the school is to be converted into an Academy.
- (2) The Secretary of State may make one or more of the directions listed in sub-paragraph (3) in respect of publicly funded land which is held for the purposes of the school by—
- (a) the governing body of the school,
 - (b) the foundation body of the school, or
 - (c) the trustees of the school.
- (3) The directions are—
- (a) that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (b) that the governing body, the foundation body or the trustees, as the case may be, pay, either to the Secretary of State or to such local authority as the Secretary of State 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;
 - (c) that the land or any part of the land be transferred to a person concerned with the running of the Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.
- (4) Unless otherwise specified in the direction, any transfer of land pursuant to sub-paragraph (3) is to take place on the conversion date.

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Power of Secretary of State to make direction on discontinuance of foundation, voluntary or foundation special school

- 11 (1) This paragraph applies where the Secretary of State has received an application under sub-paragraph (2), (3) or (4ZA) of paragraph 5 of Schedule 22 to SSFA 1998 (application in respect of land held by governing body, foundation body or trustees on discontinuance of school).
- (2) The Secretary of State may direct that the land or any part of the land to which the application relates be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

Power of Secretary of State to make direction on proposed disposal of school land

- 12 (1) This paragraph applies where the Secretary of State has received a notice under any of the following paragraphs of Schedule 22 to SSFA 1998—
 - (a) paragraph A1A(4) (notice by governing body of intention to dispose of publicly funded land);
 - (b) paragraph A7A(4) (notice by foundation body of intention to dispose of publicly funded land);
 - (c) paragraph A13A(6) (notice by trustees of intention to dispose of publicly funded land);
 - (d) paragraph A23(4)(b) (notice by local authority of intention to apply for transfer order in respect of publicly funded land).
- (2) The Secretary of State may direct that the land or any part of the land to which the notice relates be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

Transfer of land and other property on dissolution of governing body

- 13 (1) This paragraph applies where a governing body of a school are to be dissolved by virtue of paragraph 5(2)(a)(iv) of Schedule 1 to EA 2002 (dissolution of governing body on conversion date following Academy order).
- (2) Where a governing body are so dissolved, the following are transferred as provided in sub-paragraph (3)—
 - (a) all publicly funded land which is held by the governing body for the purposes of the school and which is not transferred on the conversion date (pursuant to a direction under paragraph 10 or otherwise);
 - (b) all other property of the governing body which is used or held for the purposes of the school;
 - (c) all rights and liabilities of the governing body (including rights and liabilities in relation to staff) which were acquired or incurred for the purposes of the school.

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- (3) The land, other property, rights and liabilities are, on the conversion date, transferred to, and by virtue of this Act vest in—
- (a) the local authority that maintained the school, or
 - (b) such person concerned with the running of an Academy as the Secretary of State directs before the conversion date.
- (4) Sub-paragraph (2) does not apply to—
- (a) any land for which provision has been made for payment under paragraph 10(3)(b),
 - (b) any land or other property which is held by the governing body on trust for the purposes of the school,
 - (c) any property or rights to which section 7 (transfer of school surpluses) applies, or
 - (d) unless the Secretary of State otherwise directs before the conversion date, any liabilities of the governing body in respect of a loan made to the governing body.
- (5) Subject to sub-paragraphs (6) and (7), a governing body who are to be dissolved as mentioned in sub-paragraph (1) may transfer any land or other property which is held by them on trust for the purposes of the school to any person to hold such land or other property on trust for purposes connected with the provision of education in schools.
- (6) Sub-paragraph (5) does not apply to land in respect of which a direction has been made under paragraph 10(3) (a) or (c).
- (7) Sub-paragraph (5) does not apply to land or other property held by a governing body on trust for the purposes of the school in a case where any other persons (“other trustees”) also hold land or other property on trust for the purposes of the school.
- (8) In a case mentioned in sub-paragraph (7), the land or other property held on trust by the governing body is, on the conversion date, transferred to, and by virtue of this Act vests in, the other trustees.
- (9) If any doubt or dispute arises as to the persons to whom land or other property is transferred under sub-paragraph (8), it is to be treated as so transferred to such persons as the Secretary of State directs.

PART 3

LAND HELD FOR THE PURPOSES OF AN ACADEMY

Notice in relation to certain land held for the purposes of an Academy

- 14 (1) This paragraph applies to land—
- (a) that is held for the purposes of an Academy, and
 - (b) that has been acquired or enhanced in value wholly or partly by payments made by or on behalf of—
 - (i) a local authority, or
 - (ii) the Secretary of State.

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This is subject to sub-paragraph (2).

- (2) If a leasehold interest in land is held for the purposes of a new Academy, this paragraph does not apply to—
 - (a) that or any other leasehold interest in the land, or
 - (b) a freehold interest in the land.
- (3) An Academy is a new Academy for the purposes of sub-paragraph (2) if, by virtue of section 9(1)(a) (new educational institutions), the duty in section 9(2) (impact on other schools etc) applied when the Secretary of State was deciding whether to enter into Academy arrangements in relation to it.
- (4) In the case of land to which this paragraph applies that has been acquired or enhanced in value wholly or partly by payments made by or on behalf of a local authority, the authority may serve a notice under sub-paragraph (6).
- (5) In the case of land to which this paragraph applies that has been acquired or enhanced in value wholly or partly by payments made by or on behalf of the Secretary of State, the Secretary of State may serve a notice under sub-paragraph (6).
- (6) A notice under this sub-paragraph is a notice that the land is publicly funded land for the purposes of this Schedule.
- (7) A notice under sub-paragraph (6) must be served—
 - (a) on the person holding the land (subject to sub-paragraph (8)),
 - (b) within the period of six months beginning with the date on which the payments were made, or, if there is more than one such date, the latest of those dates.
- (8) Where the land is vested in the official custodian for charities in trust for a charity, a notice under sub-paragraph (6) must be served—
 - (a) on the charity, if the charity is a corporate charity;
 - (b) on the persons having the general control and management of the administration of the charity, in any other case.

*Power of Secretary of State to make direction on
educational institution ceasing to be an Academy*

- 15 (1) This paragraph applies if—
 - (a) an educational institution ceases to be an Academy, and
 - (b) immediately before it does so, publicly funded land is held by a person for the purposes of the Academy.
- (2) Sub-paragraph (1)(a) applies whether or not, on the educational institution ceasing to be an Academy, it simultaneously ceases to function as an educational institution.
- (3) The Secretary of State may make one or more of the following directions—
 - (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;

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- (b) a direction that the person holding the land pay, either to the Secretary of State or to such local authority as the Secretary of State 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;
- (c) a direction that the land or any part of the land be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
- (d) a direction that the land or any part of the land be transferred to the governing body, foundation body or trustees of a school, subject to the payment by that body or trustees (as the case may be) or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

Termination of occupation by Academy of land held by trustees: notice of termination and power of Secretary of State to make direction

- 16 (1) This paragraph applies if—
- (a) land has been held for the purposes of a maintained school by the trustees of the school,
 - (b) the land is held by the trustees for the purposes of an Academy, and
 - (c) the termination of the Academy's occupation of the land would have the result that it was not reasonably practicable for the Academy to continue to be conducted at its existing site.
- (2) A notice given by the trustees to the Academy proprietor that purports to terminate the Academy's occupation of the land is not effective unless—
- (a) the period of notice is reasonable, having regard to the length of time that it would take to terminate the Academy arrangements, and in any event is not less than two years, and
 - (b) a copy of the notice is given to the Secretary of State and the local authority by which the school was maintained at the same time as the notice is given to the proprietor.
- (3) Where the trustees give, at the same (or substantially the same) time, notices purporting to terminate an Academy's occupation of two or more pieces of land held by the trustees for the purposes of the Academy, then for the purpose of determining whether sub-paragraph (1)(c) applies in relation to any of those pieces of land, regard may be had to the combined effect of terminating the Academy's occupation of both or all of them.
- (4) If a question arises as to whether the termination of an Academy's occupation of any land would have the result mentioned in sub-paragraph (1)(c) (including a question as to whether sub-paragraph (3) applies in any particular circumstances), it is to be determined by the Secretary of State.
- (5) Sub-paragraph (6) applies where a notice that is effective to terminate an Academy's occupation of land relates to publicly funded land.
- (6) The Secretary of State may make one or more of the following directions—
- (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the

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- payment by that authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
- (b) a direction that the trustees pay, either to the Secretary of State or to such local authority as the Secretary of State 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;
 - (c) a direction that the land or any part of the land be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (d) a direction that the land or any part of the land be transferred to the governing body, foundation body or trustees of a school, subject to the payment by that body or trustees (as the case may be) or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

*Power of Secretary of State to make direction
on proposed disposal of Academy land*

- 17 (1) This paragraph applies to a disposal of publicly funded land that is held by a person (“P”) for the purposes of an Academy.
- (2) P must give the Secretary of State notice of P’s intention to dispose of the land.
 - (3) In determining whether, and how, to give notice to the Secretary of State under sub-paragraph (2), P must have regard to any guidance given from time to time by the Secretary of State.
 - (4) On receipt of the notice, the Secretary of State must—
 - (a) decide whether to make a direction under sub-paragraph (7) in respect of the land specified in the notice, and
 - (b) notify P of that decision.
 - (5) P may not dispose of the land until P has been notified of the Secretary of State’s decision.
 - (6) If the Secretary of State decides to make a direction in respect of the land, P may not dispose of the land except in accordance with the direction.
 - (7) The Secretary of State may make one or more of the following directions—
 - (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (b) a direction that P pay, either to the Secretary of State or to such local authority as the Secretary of State 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;
 - (c) a direction that the land or any part of the land be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way

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- of consideration (if any) as the Secretary of State determines to be appropriate;
- (d) in the case of playing field land, a direction that the disposal is not to be made.
- (8) In this paragraph—
- (a) “playing field land” means land in the open air which is provided for the purposes of physical education or recreation, other than any land falling within a description prescribed under section 77(7) of SSFA 1998;
- (b) references to a disposal of land include references to a change of use of the land in cases where the land is no longer to be used for the purposes of an Academy.

PART 4

GENERAL

Directions under this Schedule: general

- 18 (1) Where a transfer pursuant to a direction under this Schedule relates to registered land, it is the duty of the transferor—
- (a) to execute any such instrument under the Land Registration Act 2002,
- (b) to deliver any such certificate under that Act, and
- (c) to do such other things under that Act,
- as the transferor would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
- (2) A direction under this Schedule may include such incidental, consequential, supplemental and transitional provision as the Secretary of State thinks is appropriate for giving it full effect.

Disapplication of rule against perpetuities

- 19 (1) Where—
- (a) land is transferred for no consideration for the purposes of an Academy, and
- (b) the person who transferred the land is granted an option to make a re-acquisition of the land (subject to whatever conditions),
- the rule against perpetuities does not apply to the option.
- (2) Sub-paragraph (1) does not apply to an option granted before 26 July 2002.

Disapplication of other Acts

- 20 (1) Where a lease is granted or transferred to a person for the purposes of an Academy on or after 26 July 2002, section 153 of the Law of Property Act 1925 (enlargement of leases granted for no rent etc) does not apply to permit that person to enlarge the term under the lease.

Status: Point in time view as at 01/02/2012.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 19 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)

- (2) Subsections (2) and (2A) of section 123 of the Local Government Act 1972 (disposals of land by principal councils) do not apply to a disposal of land to a person for the purposes of an Academy.

Regulations

- 21 (1) The Secretary of State may make regulations containing such incidental, consequential, supplemental and transitional provisions as the Secretary of State thinks are appropriate in consequence of this Schedule or for giving it full effect.
- (2) Regulations under sub-paragraph (1) about transfer schemes may in particular include provision—
- (a) requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme;
 - (b) requiring the appointed person to identify the land, rights and liabilities to be transferred by or under a scheme;
 - (c) requiring a transferor under a scheme to provide the appointed person with such documents as may be required in order to identify the land, rights and liabilities to be transferred by or under the scheme;
 - (d) requiring a transferor under a scheme to execute such instruments, deliver such certificates and do any other such things as are required by the Land Registration Act 2002 in order to transfer the land;
 - (e) treating a transferor under a scheme as having given acknowledgement in writing of the rights to production of documents.
- (3) Regulations under sub-paragraph (1) about land held by a local authority may in particular include provision—
- (a) that consent under paragraph 4 (proposed disposal of school land) is to be sought in a specified way;
 - (b) that information is to be given under paragraph 9 (duty to inform Secretary of State of proposed change of use of school land) in a specified way.
- (4) Regulations under sub-paragraph (1) about the transfer of land, other property and rights and liabilities under paragraph 13 (transfer of land and other property on dissolution of governing body) may in particular include provision about the production of documents, execution of instruments, delivery of certificates and any other related matters.

Interpretation

- 22 (1) A dwelling-house used for occupation by a person employed to work at an educational institution is to be treated for the purposes of this Schedule as used for the purposes of the educational institution.
- (2) In this Schedule—
- “foundation body”, in relation to a school, has the same meaning as in SSFA 1998 (see section 21(4) of that Act);

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“trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school.

- (3) In this Schedule, “publicly funded land” means—
- (a) in relation to land held by a governing body, land falling within any of paragraphs (a) to (i) of paragraph A1(1) of Schedule 22 to SSFA 1998 (disposals of school land on discontinuance etc);
 - (b) in relation to land held by a foundation body, land falling within any of paragraphs (a) to (h) of paragraph A7(1) of that Schedule;
 - (c) in relation to land held by trustees, other than land held for the purposes of an Academy, land falling within sub-paragraph (1), (2) or (3) of paragraph A13 of that Schedule;
 - (d) in relation to land held for the purposes of an Academy—
 - (i) land acquired from a governing body, foundation body or trustees that was, at the time of the acquisition, publicly funded land within the meaning of paragraph (a), (b) or (c);
 - (ii) land held by trustees for the purposes of an Academy which was previously held by the trustees for the purposes of a maintained school and which, at the time it was held for the purposes of a maintained school, was publicly funded land within the meaning of paragraph (c);
 - (iii) land acquired from a local authority;
 - (iv) land in relation to which a notice has been served under paragraph 14;
 - (v) land acquired from a person concerned with the running of an Academy that was, at the time of the acquisition, publicly funded land within the meaning of sub-paragraphs (i) to (iv) or this sub-paragraph.
- (4) References in this Schedule to a transfer or disposal of land are to the transfer or disposal of a freehold or leasehold interest in the land or to the grant of a lease in respect of the land.
- (5) References in this Schedule to a disposal of land include references to—
- (a) a compulsory disposal,
 - (b) in the case of any premises held under a tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies, the termination of the tenancy under that Part,
 - (c) entering into a contract to dispose of land, and
 - (d) granting an option to acquire a freehold or leasehold interest in land.
- (6) Where—
- (a) a person (A) holds a freehold or leasehold interest in land from which a leasehold interest has been granted to another person (B), and
 - (b) B is concerned with the running of an Academy,
- for the purposes of this Schedule both A and B are to be treated as holding land for the purposes of an Academy.
- (7) References in this Schedule to a lease include references to a sub-lease.”

Status: Point in time view as at 01/02/2012.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 19 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)

Commencement Information

I20 Sch. 14 para. 1 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

Amendments to Schedule 22 to SSFA 1998

- 2 Schedule 22 to SSFA 1998 (disposals of land in case of certain schools and disposals on discontinuance) is amended as set out in paragraphs 3 to 15.

Commencement Information

I21 Sch. 14 para. 2 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 3 In paragraph A1, in sub-paragraph (1)(b), at the end insert—
“paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,”.

Commencement Information

I22 Sch. 14 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 4 After paragraph A1, insert—
- “A1A1) This paragraph applies to a disposal of land to which paragraph A1 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A2 to A5 and paragraph A19—
- (a) references to the disposal are to the disposal by the governing body of the non-playing field land, and
- (b) references to the land are to that non-playing field land.
- (4) The governing body must give the Secretary of State notice of their intention to dispose of the land.
- (5) On receipt of the notice, the Secretary of State must—
- (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
- (b) notify the governing body of that decision.
- (6) The governing body may not dispose of the land until they have been notified of the Secretary of State's decision.
- (7) If the Secretary of State decides to make a direction in respect of the land, the governing body may not dispose of the land except in accordance with the direction.”

Status: Point in time view as at 01/02/2012.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 19 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)

Commencement Information

I23 Sch. 14 para. 4 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

5 In paragraph A2, for sub-paragraphs (1) to (3), substitute—

“(1) This paragraph applies where a governing body receives a notification under paragraph A1A(5)(b) that the Secretary of State has decided not to make a direction in respect of the land.”

Commencement Information

I24 Sch. 14 para. 5 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

6 In paragraph A7, in sub-paragraph (1)(b), at the end insert—

“paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,”.

Commencement Information

I25 Sch. 14 para. 6 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

7 After paragraph A7, insert—

- “A7A1) This paragraph applies to a disposal of land to which paragraph A7 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A8 to A11 and paragraph A19—
- (a) references to the disposal are to the disposal by the foundation body of the non-playing field land, and
 - (b) references to the land are to that non-playing field land.
- (4) The foundation body must give the Secretary of State notice of its intention to dispose of the land.
- (5) On receipt of the notice, the Secretary of State must—
- (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
 - (b) notify the foundation body of that decision.
- (6) The foundation body may not dispose of the land until it has been notified of the Secretary of State's decision.
- (7) If the Secretary of State decides to make a direction in respect of the land, the foundation body may not dispose of the land except in accordance with the direction.”

Status: Point in time view as at 01/02/2012.

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Commencement Information

I26 Sch. 14 para. 7 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

8 In paragraph A8, for sub-paragraphs (1) to (3), substitute—

“(1) This paragraph applies where a foundation body receives a notification under paragraph A7A(5)(b) that the Secretary of State has decided not to make a direction in respect of the land.”

Commencement Information

I27 Sch. 14 para. 8 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

9 (1) Paragraph A13 is amended as follows.

(2) In sub-paragraph (1)(d), at the end insert—

“paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,”.

(3) In sub-paragraph (7)—

(a) after “maintained schools” insert “ or Academies ”;

(b) for “A14 to A16” substitute “ A13A to A16 ”.

Commencement Information

I28 Sch. 14 para. 9 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

10 After paragraph A13, insert—

“A13A) This paragraph applies to a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies.

(2) But this paragraph only applies to a disposal if, or to the extent that, it comprises a disposal of non-playing field land which does not fall within sub-paragraph (5).

(3) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.

(4) Accordingly, in this paragraph, paragraphs A14 to A17 and paragraph A19—

(a) references to the disposal are to the disposal by the trustees of the non-playing field land, and

(b) references to the land are to that non-playing field land.

(5) A disposal of non-playing field land falls within this sub-paragraph if it is a disposal of—

(a) land acquired under section 60 or 61 of the Education Act 1996, or

(b) land acquired 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 Education Act 1996).

Status: Point in time view as at 01/02/2012.

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- (6) The trustees must give the Secretary of State notice of their intention to dispose of the land.
- (7) On receipt of the notice, the Secretary of State must—
- (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
 - (b) notify the trustees of that decision.
- (8) The trustees may not dispose of the land until they have been notified of the Secretary of State's decision.
- (9) If the Secretary of State decides to make a direction in respect of the land, the trustees may not dispose of the land except in accordance with the direction.”

Commencement Information

I29 Sch. 14 para. 10 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 11 In paragraph A14, for sub-paragraphs (1) to (5), substitute—

“(1) This paragraph applies where trustees receive a notification under paragraph A13A(7)(b) that the Secretary of State has decided not to make a direction in respect of the land.”

Commencement Information

I30 Sch. 14 para. 11 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 12 In paragraph A19, before sub-paragraph (1), insert—

“(A1) In determining whether, and how, to give notice to the Secretary of State under paragraph A1A, A7A or A13A, a governing body, a foundation body or trustees must have regard to any guidance given from time to time by the Secretary of State.”

Commencement Information

I31 Sch. 14 para. 12 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 13 (1) Paragraph A23 (land required by local authority for certain purposes) is amended as follows.

- (2) For sub-paragraph (4), substitute—

“(4) Before making an application under sub-paragraph (1) for a transfer order in relation to publicly funded land, the authority must give notice of their intention to make the application to—

- (a) the body or trustees holding the land, and
- (b) the Secretary of State.”

- (3) In sub-paragraph (6), for “such an application” substitute “an application under sub-paragraph (1) or a notice under sub-paragraph (4)”.

Status: Point in time view as at 01/02/2012.

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(4) After sub-paragraph (6), insert—

“(6A) On receipt of a notice under sub-paragraph (4)(b), the Secretary of State must—

- (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
- (b) notify the local authority of that decision.

(6B) If the Secretary of State decides to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 in respect of the land, the local authority may not make an application under sub-paragraph (1) for a transfer order in relation to the land.”

Commencement Information

I32 Sch. 14 para. 13 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

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

(2) After sub-paragraph (1), insert—

“(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.”

(3) In sub-paragraph (4), after paragraph (a) insert—

“(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);”.

(4) In sub-paragraph (4B), after paragraph (a) insert—

“(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);”.

(5) In sub-paragraph (5A), in paragraph (b), after “maintained schools” insert “ or Academies ”.

Commencement Information

I33 Sch. 14 para. 14 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

15 (1) Paragraph 7 (disposal of property held by governing body of maintained school on their dissolution) is amended as follows.

(2) In sub-paragraph (1), at the end insert “ other than a dissolution by virtue of paragraph 5(2)(a)(iv) of that Schedule (dissolution following Academy order) ”.

(3) In sub-paragraph (2)(ii), for the words from “following” to “new school” substitute “ persons or bodies mentioned in sub-paragraph (2A) ”.

Status: Point in time view as at 01/02/2012.

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(4) After sub-paragraph (2), insert—

“(2A) The persons and bodies are—

- (a) the governing body of a maintained school;
- (b) the temporary governing body of a new school;
- (c) in the case of the dissolution of a governing body of a maintained school in England, a person concerned with the running of an Academy.”

Commencement Information

I34 Sch. 14 para. 15 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

Other amendments

16 Section 482 of EA 1996 (Academies) is repealed.

Commencement Information

I35 Sch. 14 para. 16 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

17 Schedule 35A to EA 1996 (Academies: land) is repealed.

Commencement Information

I36 Sch. 14 para. 17 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

18 (1) Section 77 of SSFA 1998 (control of disposals or changes in use of school playing fields) is amended as follows.

(2) In subsection (2B)—

- (a) omit “or” at the end of paragraph (a);
- (b) after paragraph (b), insert “or
- (c) to a disposal in pursuance of—
 - (i) a transfer scheme under paragraph 1 or 2 of Schedule 1 to the Academies Act 2010 (transfer to person concerned with running of Academy), or
 - (ii) a direction under paragraph 10 of Schedule 1 to that Act (direction to transfer to local authority or person concerned with running of Academy, where Academy order made).”

(3) In subsection (3)—

- (a) in the opening words, for “subsections (4) and” substitute “ subsection ”;
- (b) in the opening words, for “(2B)(a) or (b)” substitute “ (2B)(a), (b) or (c) ”;
- (c) at the end insert “ , or by an Academy for the purposes of the Academy ”.

(4) Omit subsection (4).

(5) After subsection (4A), insert—

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“(4B) On receiving an application for consent under subsection (1) or (3), the Secretary of State may direct that the playing fields, or any part of them, be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.”

Commencement Information

I37 Sch. 14 para. 18 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

19 In section 65 of EA 2002 (Academies), omit subsection (1).

Commencement Information

I38 Sch. 14 para. 19 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

20 (1) Section 12 of AA 2010 (charitable status of Academy proprietors etc) is amended as follows.

(2) After subsection (1) insert—

“(1A) In the definition of “trust corporation” in the provisions listed in subsection (1B), the reference to a corporation appointed by the court in any particular case to be a trustee includes a reference to a qualifying Academy proprietor.

(1B) The provisions are—

- (a) section 117(1)(xxx) of the Settled Land Act 1925;
- (b) paragraph (18) of section 68(1) of the Trustee Act 1925;
- (c) section 205(1)(xxviii) of the Law of Property Act 1925;
- (d) section 55(1)(xxvi) of the Administration of Estates Act 1925;
- (e) section 128 of the Senior Courts Act 1981.”

(3) In the heading, after “charitable” insert “ and trust corporation ”.

Commencement Information

I39 Sch. 14 para. 20 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

SCHEDULE 15

Section 65

ACADEMIES: MINOR AMENDMENTS

1 In Schedule 4 to the Finance Act 2003 (stamp duty land tax: chargeable consideration), in paragraph 17(2)(e) (arrangements involving public or educational bodies) for “section 482 of the Education Act 1996” substitute “ section 1 of the Academies Act 2010 ”.

Status: Point in time view as at 01/02/2012.

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Commencement Information

I40 Sch. 15 para. 1 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 2 In Schedule 17 to the Equality Act 2010 (disabled pupils: enforcement), in paragraph 13(4) (admissions) for paragraph (b) substitute—
 “(b) Academy arrangements (as defined in section 1 of the Academies Act 2010) between the responsible body for an Academy and the Secretary of State,”.

Commencement Information

I41 Sch. 15 para. 2 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 3 In section 2 of AA 2010 (payments under Academy arrangements), omit subsection (5).

Commencement Information

I42 Sch. 15 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3

VALID FROM 01/04/2012

SCHEDULE 16

Section 67

ABOLITION OF THE YPLA: CONSEQUENTIAL AMENDMENTS

VALID FROM 01/04/2012

SCHEDULE 17

Section 68

ABOLITION OF THE YPLA: TRANSFER SCHEMES

Staff transfer schemes

- 1 The Secretary of State may make a scheme (a “staff transfer scheme”) providing for designated employees of the YPLA—
 (a) to become members of staff of the Secretary of State (and accordingly to become employed in the civil service of the state), or
 (b) to be transferred to a permitted transferee.
- 2 (1) This paragraph applies where a staff transfer scheme provides for an employee of the YPLA to become a member of staff of the Secretary of State.

Status: Point in time view as at 01/02/2012.

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- (2) The staff transfer scheme may provide—
 - (a) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the YPLA to have effect as if they were the conditions of service as a member of the Secretary of State's staff;
 - (b) for the transfer to the Secretary of State of the rights, powers, duties and liabilities of the YPLA under or in connection with the employee's contract of employment;
 - (c) for anything done (or having effect as if done) before that transfer by or in relation to the YPLA in respect of such a contract or the employee to be treated as having been done by or in relation to the Secretary of State.
 - (3) The staff transfer scheme may provide for a period before the employee became a member of the Secretary of State's staff to count as a period during which the employee was a member of the Secretary of State's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
 - (4) The staff transfer scheme may provide for the employee not to become a member of the Secretary of State's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
 - (5) The staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
 - (6) The staff transfer scheme may provide for an employee of the YPLA to become a member of the Secretary of State's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.
- 3
- (1) This paragraph applies where a staff transfer scheme provides for the transfer of an employee of the YPLA to a permitted transferee.
 - (2) The staff transfer scheme may provide—
 - (a) for the employee's contract of employment to have effect (subject to any necessary modifications)—
 - (i) as if originally made between the employee and the permitted transferee, or
 - (ii) as the conditions of service as a member of the permitted transferee's staff;
 - (b) for the transfer to the permitted transferee of the rights, powers, duties and liabilities of the YPLA under or in connection with the employee's contract of employment;
 - (c) for anything done (or having effect as if done) before that transfer by or in relation to the YPLA in respect of such a contract or the employee to be treated as having been done by or in relation to the permitted transferee.
 - (3) The staff transfer scheme may provide for a period before the employee became a member of the permitted transferee's staff to count as a period during which the employee was a member of the permitted transferee's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).

Status: Point in time view as at 01/02/2012.

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- (4) The staff transfer scheme may provide for the employee not to become a member of the permitted transferee's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (5) The staff transfer scheme may provide for any person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (6) The staff transfer scheme may provide for the transfer of an employee of the YPLA to a permitted transferee despite any provision, of whatever nature, which would otherwise prevent the employee from being so transferred.

Property transfer schemes

- 4 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the YPLA of designated property, rights or liabilities of the YPLA to—
 - (a) the Secretary of State, or
 - (b) a permitted transferee.
- (2) A property transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the YPLA in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the person to whom the property, rights or liabilities in question are transferred;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.

Continuity

- 5 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the YPLA before the transfer takes effect.

Supplementary provision etc.

- 6 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Interpretation

- 7 In this Schedule—
 - “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;

Status: Point in time view as at 01/02/2012.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 19 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)

“permitted transferee” means a person specified in an order made by the Secretary of State;

“the YPLA” means the Young People's Learning Agency for England.

VALID FROM 01/09/2012

SCHEDULE 18

Section 69

THE APPRENTICESHIP OFFER: CONSEQUENTIAL AMENDMENTS

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Status:

Point in time view as at 01/02/2012.

Changes to legislation:

Education Act 2011 is up to date with all changes known to be in force on or before 19 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.