



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

#### CHAPTER IV

##### GRANT-MAINTAINED SCHOOLS

##### *Winding up and disposal of property*

#### 94 Winding up

- (1) Where in the case of any grant-maintained school—
- (a) proposals for discontinuance of the school have been approved under section 92 of this Act; or
  - (b) the Secretary of State has given notice to the governing body of the school under section 93 of this Act specifying a date on which he intends to cease to maintain the school;

the Secretary of State may by order make provision for the winding up of the governing body of the school and the disposal of the school property.

- (2) An order made under this section may—
- (a) set out a proposed timetable for the winding up and, in particular, for—
    - (i) securing that all property belonging to the governing body or held by any trustees on trust for the purposes of the school is brought into the custody or control of that body or those trustees (as the case may require);
    - (ii) discharging any liabilities of the governing body;
    - (iii) making any provision mentioned in paragraphs (d) to (f) below; and
    - (iv) the preparation and audit of the governing body's final accounts;

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- (b) make provision with respect to the exercise of the functions of the governing body in relation to the school, including in particular—
    - (i) provision requiring the governing body in the exercise of those functions to comply with any directions given by the Secretary of State;
    - (ii) provision authorising any of those functions to be exercised by any member of the governing body specified in the order; and
    - (iii) provision for the application of the seal of the governing body to be authenticated by the signature of any person so specified;
  - (c) make provision for conferring or imposing functions on the governing body in relation to the winding up and the management and disposal of the school property;
  - (d) make any provision authorised by section 95 of this Act for or in connection with the transfer of the school property;
  - (e) make any provision authorised by section 97 of this Act with respect to the discharge of the liabilities of the governing body and the payment of the costs of the winding up;
  - (f) make any provision authorised by section 98 or 99 of this Act in relation to capital expenditure in respect of the school premises;
  - (g) require the governing body to give to persons employed by them notice terminating their contracts of employment as from a date specified in the order; and
  - (h) appoint a date on which the governing body is to be dissolved.
- (3) Below in this Chapter—
- (a) references to a governing body in liquidation are references to a governing body in respect of whom any order has been made under this section; and
  - (b) references, in relation to any such governing body or the grant-maintained school conducted, or formerly conducted, by any such body, to the dissolution date are references to the date appointed in relation to that governing body by virtue of subsection (2)(h) above.
- (4) The Secretary of State may make grants to a governing body in liquidation for the purpose of—
- (a) discharging any liabilities of that governing body (other than section 105 loan liabilities); and
  - (b) meeting any costs incurred by that governing body for the purposes of the winding up under this section.
- (5) The Secretary of State may impose on a governing body to whom any such payment is made such requirements as he may from time to time determine (whether before, at or after the time when the payment in question is made).
- (6) The Secretary of State shall not by an order under this section appoint a date on which a governing body in liquidation is to be dissolved unless he is satisfied that—
- (a) all liabilities of the governing body (other than any section 105 loan liabilities which fall to be transferred or terminated under section 97 of this Act) have been discharged;
  - (b) all costs of the winding up have been met; and
  - (c) any provision authorised by any of sections 95 to 99 of this Act which is possible and expedient in the circumstances of the case has been made and

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anything required to be done by the governing body for the purposes of or in connection with any such provision has been done.

(7) In this Chapter—

- (a) references, in relation to a governing body in liquidation, to section 105 loan liabilities are references to any liabilities in respect of any loans made under section 105 of the 1944 Act (loans by Secretary of State towards initial capital expenditure) which were transferred to the governing body under section 74 of this Act;
- (b) references, in relation to a grant-maintained school conducted or formerly conducted by a governing body in liquidation, to the school property are references to—
  - (i) the premises used or formerly used for the purposes of the school;
  - (ii) any interest belonging to the governing body or held by any trustees on trust for the purposes of the school in any dwelling-house used or held or formerly used or held for occupation by a person employed to work at the school; and
  - (iii) all other equipment and property used or held or formerly used or held for the purposes of the school, with the exception of money and any investments to which section 96 of this Act applies; and
- (c) references to a grant-maintained school formerly conducted by a governing body in liquidation apply in circumstances where the school has been discontinued before the dissolution date and refer to the school as conducted immediately before discontinuance (and “formerly” in sub-paragraphs (i) to (iii) of paragraph (b) above applies in the same circumstances and refers to the time immediately before the discontinuance of the school concerned).