



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

#### CHAPTER IV

##### GRANT-MAINTAINED SCHOOLS

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

#### **97 Discharge, transfer and termination of liabilities, etc.**

- (1) Subsection (2) below applies where in the case of any grant-maintained school conducted or formerly conducted by a governing body in liquidation an order is made by virtue of section 95(2) of this Act vesting the school premises in any persons proposing to establish an independent school on those premises ("the new owners").
- (2) Where this subsection applies, an order under section 94 of this Act may do either or both of the following things, that is to say—
  - (a) require the new owners to discharge any liabilities of the governing body in respect of redundancy payments; and
  - (b) require an amount equal to the whole or any part of the amount required for—
    - (i) discharging any liabilities of the governing body other than liabilities required by virtue of paragraph (a) above to be discharged by the new owners; and
    - (ii) meeting the costs of the winding up under section 94 of this Act;to be deducted from the consideration otherwise payable by virtue of section 95 of this Act to the local education authority concerned and paid by the new owners to the Secretary of State.

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*Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.*

*Changes to legislation: Education Reform Act 1988, Section 97 is up to date with all changes known to be in force on or before 21 March 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)*

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- (3) This subsection applies where in the case of any grant-maintained school conducted or formerly conducted by a governing body in liquidation proposals under section 13 of the 1980 Act that a school proposed to be established on the school premises should be maintained by a local education authority as a voluntary school have been approved.
- (4) Where in any case to which subsection (3) above applies the school was an aided or special agreement school immediately before it became a grant-maintained school—
- (a) if the Secretary of State has directed that the proposed school shall be an aided school, any section 105 loan liabilities of the governing body shall on the dissolution date be transferred to and become liabilities of the temporary governing body of the new school (subject to any variation of the terms applicable in relation to the loans in question immediately before that date that may be agreed between the Secretary of State and that governing body); and
  - (b) in any other case, any such liabilities shall be terminated on the dissolution date.
- (5) Where—
- (a) a school is established in pursuance of any proposals under section 13 of the 1980 Act on the premises of a discontinued grant-maintained school; and
  - (b) any liabilities of the governing body of that grant-maintained school have been terminated under subsection (4)(b) above;
- the amount of those liabilities shall be treated for the purposes of section 14 of the 1944 Act (restrictions on discontinuance of voluntary schools) as expenditure incurred by the Secretary of State (otherwise than in connection with repairs) in respect of the premises of the new school.
- (6) Where in any case to which subsection (3) above applies the school premises are vested in any persons by an order made by virtue of section 95(1) of this Act, an order under section 94 of this Act may require an amount equal to the whole or any part of the amount required for discharging any liabilities of the governing body and meeting the costs of the winding up to be deducted from the consideration otherwise payable by virtue of section 95 of this Act to the local education authority concerned and paid by the persons in whom the premises are so vested to the Secretary of State.
- (7) Where in the case of any grant-maintained school conducted or formerly conducted by a governing body in liquidation the premises of the school are vested by an order made by virtue of section 95(4) of this Act in a local education authority for the purposes of a new county school, an order under section 94 of this Act may require an amount equal to the amount of any section 105 loan liabilities of the governing body to be deducted from the consideration otherwise payable by virtue of section 95 of this Act to the persons from whom the premises are transferred and paid by the authority to the Secretary of State.
- (8) Where in the case of any grant-maintained school conducted or formerly conducted by a governing body in liquidation—
- (a) the premises of the school—
    - (i) are vested by an order made by virtue of section 95(4) of this Act in a local education authority for the purposes of a new county school;
    - (ii) are vested beneficially in such an authority by an order made by virtue of section 95(7) and (8) of this Act; or
    - (iii) vest in such an authority by virtue of section 95(6) of this Act on the dissolution date; and

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(b) any person subsequently acquires the premises or any part of them from that authority (whether compulsorily or otherwise);

the Secretary of State may require the authority to pay to him the whole or any part of the compensation or purchase money paid in respect of the acquisition in or towards repayment of any expenditure incurred by him in making grants for the purpose of discharging any liabilities of the governing body and meeting the costs of the winding up.

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