

Changes to legislation: Education and Inspections Act 2006, Part 4 is up to date with all changes known to be in force on or before 18 April 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) View outstanding changes

SCHEDULES

SCHEDULE 2

PROPOSALS FOR ESTABLISHMENT OR DISCONTINUANCE OF SCHOOLS IN ENGLAND

Modifications etc. (not altering text)

- C1** Sch. 2 modified (E.) (25.5.2007) by [The School Organisation \(Establishment and Discontinuance of Schools\) \(England\) Regulations 2007 \(S.I. 2007/1288\)](#), reg. 1(1), **Sch. 7**
- C1** Sch. 2 modified (28.1.2014) by [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013 \(S.I. 2013/3109\)](#), reg. 1, **Sch. 4 Pt. 1**
- C1** Sch. 2 modified (28.1.2014) by [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013 \(S.I. 2013/3109\)](#), reg. 1, **Sch. 4 Pt. 2**

PART 4

PROVISION OF PREMISES AND OTHER ASSISTANCE IN CONNECTION WITH ESTABLISHMENT OF NEW SCHOOL

Provision of site and buildings for proposed foundation, voluntary controlled or foundation special school

- 28 (1) This paragraph applies where a local education authority are required—
- (a) by virtue of paragraph 24(2) or (3) to provide a site for a proposed foundation or voluntary controlled school, or
 - (b) by virtue of paragraph 26(2) or (3) to provide a site for a proposed foundation special school.
- (2) The authority must transfer their interest in the site and in any buildings on the site which are to form part of the school's premises—
- (a) to the school's trustees, to be held by them on trust for the purposes of the school, or
 - (b) if the school has no trustees, to the school's foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it must be made to such persons as the adjudicator thinks proper.
- (4) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (5) Where—
- (a) a transfer is made under this paragraph, and

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- (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
those persons must notify the local education authority that paragraph (b) applies to them; and they or their successors must pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the adjudicator.
- (6) In sub-paragraph (5)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent, and
 - (b) interest which has accrued in respect of any such consideration;
- and for the purposes of any agreed determination under sub-paragraph (5) regard must be had to any guidance given from time to time by the Secretary of State.
- (7) Any sum paid under sub-paragraph (5) is to be treated for the purposes of section 14 of the Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (8) A determination may be made under sub-paragraph (5) in respect of any property subject to a trust which has arisen under section 1 of the Reverter of Sites Act 1987 (c. 15) (right of reverter replaced by trust for sale) if, and only if—
- (a) the determination is made by the adjudicator, and
 - (b) he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (9) Sub-paragraph (5) is to apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (5)(b) (if any) as remains after the application of paragraphs A1 to A16 or 1 to 3 of Schedule 22 to SSFA 1998 to that sum.
- (10) In this paragraph—
- “the relevant purposes” means—
- (a) in relation to a transfer to a school's foundation body, the purposes of the schools comprising the group for which that body acts, and
 - (b) in relation to a transfer to a school's governing body, the purposes of the school;
- “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

Modifications etc. (not altering text)

C2 Sch. 2 para. 28 applied by 2000 c. 21, Sch. 7A para. 5(1) (as substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 46](#); [S.I. 2007/935](#), art. 7(o))

Commencement Information

I1 Sch. 2 para. 28 in force at 25.5.2007 by [S.I. 2007/935](#), art. 7(n)

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Grants in respect of certain expenditure relating to proposed voluntary aided school

- 29 (1) This paragraph applies where any proposers are required by virtue of paragraph 25(2) to implement proposals involving the establishment of a new voluntary aided school.
- (2) Paragraph 5 of Schedule 3 to SSFA 1998 applies in relation to the new school as it applies in relation to an existing voluntary aided school.
- (3) In the application of that paragraph in relation to a new voluntary aided school—
- (a) the references to the governing body, in relation to any time before the governing body are constituted, are to be read as references to the proposers;
 - (b) where requirements are imposed in relation to grant paid by virtue of this paragraph to the proposers, the requirements must be complied with by the governing body, when they are constituted, as well as by the proposers.

Commencement Information

I2 Sch. 2 para. 29 in force at 25.5.2007 by [S.I. 2007/935](#), [art. 7\(n\)](#)

Assistance for proposers of proposed voluntary aided school

- 30 A local education authority may give to persons required by virtue of paragraph 25(2) to implement proposals involving the establishment of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by those persons of any obligation arising by virtue of that provision.

Commencement Information

I3 Sch. 2 para. 30 in force at 25.5.2007 by [S.I. 2007/935](#), [art. 7\(n\)](#)

Duty to transfer interest in premises provided under paragraph 30

- 31 (1) Where assistance under paragraph 30 consists of the provision of any premises for use for the purposes of a school, the local education authority must transfer their interest in the premises—
- (a) to the trustees of the school to be held on trust for the purposes of the school, or
 - (b) if the school has no trustees, to the school's foundation body, to be held by that body for the relevant purposes.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer it must be made to such persons as the adjudicator thinks proper.
- (3) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school's foundation body, the purposes of the schools comprising the group for which that body acts.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2006/2990 art. 4 by [S.I. 2008/54 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2007/935 art. 7(n) by [S.I. 2007/1271 art. 4](#)
- specified provision(s) transitional provisions for earlier commencing SI 2007/935 by [S.I. 2007/1271 art. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A inserted by [2010 c. 26 s. 7](#)
- s. 88(A1) inserted by [2015 c. 20 Sch. 16 para. 1\(2\)](#)
- s. 93A inserted by [2009 c. 22 s. 246](#)
- s. 93A(7) words inserted by [S.I. 2016/413 reg. 235](#) (This amendment comes into force on the day that section 93A of the Education and Inspections Act 2006 (c. 40) comes into force. That provision is still prospective)
- s. 162(5A)(aa) inserted by [2010 nawm 1 Sch. 1 para. 20\(a\)](#)