

SCHEDULES

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).

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

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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.
- (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).
- (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.

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- (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;

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- (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.
- (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—

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- (i) a local authority, or
- (ii) the Secretary of State.

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—

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- (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;
- (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)

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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 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—

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- (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 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

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- (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.
- (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

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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);
- “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,

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- (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.”

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.
- 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,”.
- 4 After paragraph A1, insert—
- “A1A (1) 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.”

- 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.”
- 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,”.
- 7 After paragraph A7, insert—
- “A7A (1) 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.”
- 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.”
- 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”.
- 10 After paragraph A13, insert—

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- “A13A(1) 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).
- (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.”

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.”

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.”

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

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- (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)”.
- (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.”
- 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”.
- 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)”.

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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.”

Other amendments

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

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

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—

“(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.”

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

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

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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”.