

## SCHEDULE 2

### Provisions of Schedule 6 to the Change of Category Regulations, applied by regulation 4(1), as modified by Schedule 1 TRANSFER OF LAND

## PART II

### Rules relating to transfers

3.—(1) This paragraph applies where—

- (a) any proposals that a community school should become a foundation school have been approved under paragraph 3 of the modified Schedule 6 to the Act or a local education authority have determined under paragraph 4 to the modified Schedule 6 to the Act to implement any such proposals; and
- (b) as from the implementation date the school (as a foundation school) will be a member of a group for which a foundation body acts.

(2) In such a case, any land, other than land held on trust, which, immediately before the implementation date, was held or used by a local authority for the purposes of the community school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body.

4.—(1) This paragraph applies where—

- (a) any proposals that a community school should become a voluntary aided school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a voluntary aided school) will be a member of a group for which a foundation body acts.

(2) In such a case, any land other than playing fields or land held on trust which, immediately before the implementation date, was held or used by a local authority for the purposes of the community school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body.

5.—(1) This paragraph applies where—

- (a) any proposals that a community school should become a voluntary controlled school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a voluntary controlled school) will be a member of a group for which a foundation body acts.

(2) In such a case, any land other than playing fields or land held on trust which, immediately before the implementation date, was held or used by a local authority for the purposes of the community school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body.

6.—(1) This paragraph applies where any proposals that a foundation school should become a community school have been approved under paragraph 3 of the modified Schedule 6 to the Act.

(2) In such a case—

- (a) any publicly funded land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the foundation school shall on that date be transferred to, and by virtue of this paragraph vest in, the local education authority; and

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(b) any other land which, immediately before that date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the foundation school shall be transferred to and vest in the local education authority in accordance with a transfer agreement.

(3) In this paragraph “publicly funded land” means land which was acquired—

- (a) from a local authority under a transfer under section 201(1)(a) of the Education Act 1996<sup>(1)</sup>;
- (b) from the Funding Agency for Schools;
- (c) wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the Education Act 1996);
- (d) wholly by means of any grant paid under regulation 2 of the Education (Schedule 32 to the School Standards and Framework Act 1998) (England) (No. 2) Regulations 1999<sup>(2)</sup>;
- (e) wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
- (f) under a transfer under this Schedule; or
- (g) wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (f).

(4) In this paragraph “transfer agreement” means an agreement—

- (a) made for the purposes of sub-paragraph (2)(b) between the local education authority and the foundation body mentioned in that sub-paragraph, with the prior consent in writing of the governing body, and
- (b) providing for the land in question to be transferred to, and vest in, the authority on the implementation date, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

**6A.**—(1) This paragraph applies where—

- (a) any proposals that a foundation school which is not a member of a group for which a foundation body acts should become a voluntary aided or voluntary controlled school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a voluntary aided or controlled school) will be a member of such a group.

(2) In such a case any land, other than land held on trust, which, immediately before the implementation date, was held by the governing body for the purposes of the foundation school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body.

**6B.**—(1) This paragraph applies where—

- (a) any proposals that a foundation school which is a member of a group for which a foundation body acts should become a voluntary aided or voluntary controlled school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a voluntary aided or voluntary controlled school) will not be a member of such a group.

(2) In such a case any land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the

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(1) 1996 c. 56.  
(2) S.I.1999/2271.

foundation school shall on that date be transferred to, and by virtue of this paragraph vest in, the trustees of the school, to be held by them on trust for the purposes of the school.

7.—(1) This paragraph applies where any proposals that a voluntary aided school should become a community school have been approved under paragraph 3 of the modified Schedule 6 to the Act.

(2) In such a case—

- (a) any publicly funded land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary aided school shall on that date be transferred to, and by virtue of this paragraph vest in, the local education authority; and
- (b) any other land which, immediately before that date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary aided school shall be transferred to and vest in the local education authority in accordance with a transfer agreement.

(3) In this paragraph “publicly funded land” means land which was acquired—

- (a) from a local authority under a transfer under section 201(1)(a) of the Education Act 1996;
- (b) from the Funding Agency for Schools;
- (c) wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the Education Act 1996);
- (d) wholly by means of any grant paid under regulation 2 of the Education (Schedule 32 to the School Standards and Framework Act 1998) (England) (No. 2) Regulations 1999;
- (e) wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
- (f) under a transfer under this Schedule; or
- (g) wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (f).

(4) In this paragraph “transfer agreement” means an agreement—

- (a) made for the purposes of sub-paragraph 2(b) between the local education authority and the foundation body mentioned in that sub-paragraph, with the prior consent in writing of the governing body, and
- (b) providing for the land in question to be transferred to, and vest in, the authority on the implementation date, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

8.—(1) This paragraph applies where—

- (a) any proposals that a voluntary aided school which is not a member of a group for which a foundation body acts should become a foundation school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a foundation school) will be a member of such a group.

(2) In such a case any land, other than land held on trust, which, immediately before the implementation date, was held by the governing body or the local education authority for the purposes of the voluntary aided school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body.

8A.—(1) This paragraph applies where—

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- (a) any proposals that a voluntary aided school which is a member of a group for which a foundation body acts should become a foundation school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a foundation school) will not be a member of such a group.

(2) In such a case any land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary aided school or was held or used by the local education authority for the purposes of that school shall on that date be transferred to, and by virtue of this paragraph vest in,—

- (a) the trustees of the school, to be held by them on trust for the purpose of the school; or
- (b) if the school has no trustees, the governing body.

**8B.**—(1) This paragraph applies where—

- (a) any proposals that a voluntary aided school or a voluntary controlled school which is not a member of a group for which a foundation body acts should become (as the case may be) a voluntary controlled or a voluntary aided school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school will be a member of such a group.

(2) In such a case any land, other than land held on trust, which, immediately before the implementation date, was held by the governing body for the purposes of the school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body.

**8C.**—(1) This paragraph applies where—

- (a) any proposals that a voluntary aided or a voluntary controlled school which is a member of a group for which a foundation body acts should become (as the case may be) a voluntary controlled school or a voluntary aided school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school will not be a member of such a group.

(2) In such a case any land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the school shall on that date be transferred to, and by virtue of this paragraph vest in, the trustees of the school to be held by them on trust for the purposes of the school.

**9.**—(1) This paragraph applies where any proposals that a voluntary controlled school should become a community school have been approved under paragraph 3 of the modified Schedule 6 to the Act.

(2) In such a case—

- (a) any publicly funded land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary controlled school shall on that date be transferred to, and by virtue of this paragraph vest in, the local education authority; and
- (b) any other land which, immediately before that date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary controlled school shall be transferred to and vest in the local education authority in accordance with a transfer agreement.

(3) In this paragraph “publicly funded land” means land which was acquired—

- (a) from a local authority under a transfer under section 201(1)(a) of the Education Act 1996;

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- (b) from the Funding Agency for Schools;
  - (c) wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the Education Act 1996);
  - (d) wholly by means of any grant paid under regulation 2 of the Education (Schedule 32 to the School Standards and Framework Act 1998) (England) (No. 2) Regulations 1999;
  - (e) wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
  - (f) under a transfer under this Schedule; or
  - (g) wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (f).
- (4) In this paragraph “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2)(b) between the local education authority and the foundation body mentioned in that sub-paragraph, with the prior consent in writing of the governing body, and
  - (b) providing for the land in question to be transferred to, and vest in, the authority on the implementation date, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

**10.**—(1) This paragraph applies where—

- (a) any proposals that a voluntary controlled school which is not a member of a group for which a foundation body acts should become a foundation school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a foundation school) will be a member of such a group.

(2) In such a case, any land, other than land held on trust, which, immediately before the implementation date, was held by the governing body or the local education authority for the purposes of the voluntary controlled school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body.

**10A.**—(1) This paragraph applies where—

- (a) any proposals that a voluntary controlled school which is a member of a group for which a foundation body acts should become a foundation school have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school (as a foundation school) will not be a member of such a group.

(2) In such a case any land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary controlled school or was held by the local authority for the purposes of that school shall on that date be transferred to, and by virtue of this paragraph vest in,—

- (a) the trustees of the school, to be held by them on trust for the purposes of the school; or
- (b) if the school has no trustees, the governing body.

**11.**—(1) This paragraph applies where any proposals that a community special school should become a foundation special school have been approved under paragraph 3 of the modified Schedule 6 to the Act or a local education authority have determined under paragraph 4 of the modified Schedule 6 to the Act to implement any such proposals.

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(2) In such a case, any land which, immediately before the implementation date, was held or used by a local authority for the purposes of the community special school shall on that date be transferred to, and by virtue of this paragraph vest in,—

- (a) the trustees of the school, to be held by them on trust for the purposes of the school; or
- (b) if the school has no trustees, the governing body.

**12.**—(1) This paragraph applies where any proposals that a foundation special school should become a community special school have been approved under paragraph 3 of the modified Schedule 6 to the Act.

(2) In such a case—

- (a) any publicly funded land which, immediately before the implementation date, was held by the trustees of the school or the governing body for the purposes of the foundation special school shall on that date be transferred to, and by virtue of this paragraph vest in, the local education authority; and
- (b) any other land which, immediately before that date, was held by the trustees of the school or the governing body for the purposes of the foundation special school shall be transferred to and vest in the local education authority in accordance with a transfer agreement.

(3) In this paragraph “publicly funded land” means land which was acquired—

- (a) from a local authority under a transfer under section 201(1)(a) of the Education Act 1996;
- (b) from the Funding Agency for Schools;
- (c) wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the Education Act 1996);
- (d) wholly by means of any grant paid under regulation 2 of the Education (Schedule 32 to the School Standards and Framework Act 1998) (England) (No. 2) Regulations 1999;
- (e) wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
- (f) under a transfer under this Schedule; or
- (g) wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (f).

(4) In this paragraph “transfer agreement” means an agreement—

- (a) made for the purposes of sub-paragraph (2)(b) between the local education authority and the trustees mentioned in that sub-paragraph or (as the case may be) the governing body, and
- (b) providing for the land in question to be transferred to, and vest in, the authority on the implementation date, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

**12A.**—(1) This paragraph applies where—

- (a) any proposals that a foundation, voluntary aided or voluntary controlled school which is a member of a group for which a foundation body acts should become a school of another category, being (as the case may be) a foundation, voluntary aided or voluntary controlled school, have been approved under paragraph 3 of the modified Schedule 6 to the Act; and
- (b) as from the implementation date the school will be a member of a group for which another foundation body acts.

(2) In such a case any land which, immediately before the implementation date, was held by the foundation body mentioned in sub-paragraph (1)(a) above for the purposes of the schools in the

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group and used for the purposes of the school shall on that date be transferred to, and by virtue of this paragraph vest in, the foundation body mentioned in sub-paragraph (1)(b) above.