

Changes to legislation: Education Reform Act 1988, Cross Heading: Construction of agreements is up to date with all changes known to be in force on or before 19 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) View outstanding changes

SCHEDULES

SCHEDULE 10

SUPPLEMENTARY PROVISIONS WITH RESPECT TO TRANSFERS

Modifications etc. (not altering text)

- C1** Sch. 10: functions conferred by [The Education \(Inner London Education Authority\) \(Transfer of Functions\) Order 1991 \(S.I.1991/1457\)](#), **arts. 2(b)**, 3
- Sch. 10 applied (with modifications) (1.4.1999 in relation to s. 74 of the amending Act and 1.9.1999 in relation to Sch. 21 of the amending Act) by [School Standards and Framework Act 1998 \(c. 31\)](#), s. 74, **Sch. 21 Pt. I para. 2(3)** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**, s. 74; S.I. 1999/2323, art. 2(1), **Sch.**
- Power to amend conferred (1.2.1999) by [School Standards and Framework Act 1998 \(c. 31\)](#), s. 137(4) **(a)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).
- Sch. 10 applied (with modifications) (1.1.2001) by [The Education \(New Procedures for Property Transfers\) Regulations 2000 \(S.I. 2000/3209\)](#), regs. 5, 6, 7, **Sch. 1**
- Sch. 10 modified (E.) (1.1.2001) by [The Education \(New Procedures for Property Transfers\) Regulations 2000 \(S.I. 2000/3209\)](#), **regs. 15, 17**, (with regs. 18, 19)
- Sch. 10 modified (W.) (1.9.2001) by [The Change of Category of Maintained Schools \(Wales\) Regulations 2001 \(S.I. 2001/2678\)](#), reg. 16, **Sch. 4 para. 2**
- C1** Sch. 10 applied (E.) (25.5.2007) by [The School Governance \(Federations\) \(England\) Regulations 2007 \(S.I. 2007/960\)](#), regs. 1(1), **41(2)**, 46(2)
- C1** Sch. 10 applied (W.) (12.4.2010) by [The Federation of Maintained Schools and Miscellaneous Amendments \(Wales\) Regulations 2010 \(S.I. 2010/638\)](#), regs. 1(1), **80(2)**, 86(2)
- C1** Sch. 10 applied (1.9.2012) by [The School Governance \(Federations\) \(England\) Regulations 2012 \(S.I. 2012/1035\)](#), **regs. 1, 13(2)**, 33(2), 39(2) (with reg. 2)
- C1** Sch. 10 modified (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 4 para. 9**; S.I. 2013/1800, art. 3(h)
- C1** Sch. 10 applied (22.5.2014) by [The Federation of Maintained Schools \(Wales\) Regulations 2014 \(S.I. 2014/1132\)](#), **regs. 1(1), 84(2)**, 91(2)

Construction of agreements

- 6 (1) Where in the case of any transfer to which this Schedule applies any rights or liabilities transferred are rights or liabilities under an agreement to which the transferor was a party immediately before the transfer date, the agreement shall, unless the context otherwise requires, have effect on and after the transfer date as if—
- the transferee had been a party to the agreement;
 - for any reference (whether express or implied and, if express, however worded) to the transferor there were substituted, as respects anything falling to be done on or after the transfer date, a reference to the transferee;
 - any reference (whether express or implied and, if express, however worded) to a specified officer of the transferor or a person employed by the transferor in a specified capacity were, as respects anything falling to be done on

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or after the transfer date, a reference to such person as the transferee may appoint or, in default of appointment, to an officer or employee of the transferee who corresponds as closely as possible to the person referred to in the agreement;

- (d) where the agreement refers to property, rights or liabilities which fall to be apportioned or divided between the transferor and the transferee, the agreement constituted two separate agreements separately enforceable by and against the transferor and the transferee as regards the part of the property, rights or liabilities retained by the transferor or (as the case may be) the part vesting in the transferee, and not as regards the other part;

and paragraph (d) above shall apply in particular to the covenants, stipulations and conditions of any lease by or to the transferor.

- (2) This paragraph applies to any agreement whether in writing or not and whether or not of such a nature that rights and liabilities under it could be assigned by the transferor.

Modifications etc. (not altering text)

- C1** Sch. 10 paras. 6-8 applied (1.1.1994) by 1993 c. 35, ss. 238, 239, **Sch. 13**, para.15; S.I. 1993/3106, art. 4, **Sch.1** (with art. 5, **Sch. 2**) (amended by S.I. 1994/436, **art.2**).
 Sch. 10 paras. 6-8 applied (1.11.1996) by 1996 c. 56, ss. 88(1), 583, **Sch. 7 para. 12** (with ss. 1(4), 561, 562, **Sch. 39**).
 Sch. 10 paras. 6-8 applied (1.9.1999) by 1998 c. 31, s. 76, **Sch. 22 Pt. III para. 9(2)** (with s. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
 Sch. 10 paras. 6-8 extended (1.9.1999) by S.I. 1999/2243, **reg. 44(2)**.
 Sch. 10 paras. 6-8 applied (1.9.1999) by S.I. 1999/2262, **reg. 44(2)**.
- C2** Sch. 10 paras. 6-8 extended (10.3.1999) by S.I. 1999/362, **reg. 25(2)**.
- C3** Sch. 10 para. 6 applied (with modifications) (10.3.1999) by S.I. 1999/362, **reg. 54(6)(a)**.
 Sch. 10 para. 6 applied (with modifications) (E.) (31.12.1999) by S.I. 1999/362, **regs. 54A(1), 54C(1)**, (as substituted (E.) (31.12.1999) by S.I. 1999/3297, **reg. 2**)
 Sch. 10 paras. 2-10 applied (with modifications) (W.) (31.7.2000) by S.I. 1999/362, **reg. 54A(1)** (as substituted (W.) (31.7.2000) by 2000/1867, reg. 2, Sch.)

- 7 (1) Without prejudice to the generality of paragraph 6 above, the transferee under a transfer to which this Schedule applies and any other person shall, as from the transfer date, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing any right or liability transferred to and vested in the transferee by virtue of this Act [^{F1}or of the School Standards and Framework Act 1998] as he would have had if that right or liability had at all times been a right or liability of the transferee.
- (2) Any legal proceedings or applications to any authority pending on the transfer date by or against the transferor, in so far as they relate to any property, right or liability transferred to the transferee by virtue of this Act [^{F1}or of the School Standards and Framework Act 1998], or to any agreement relating to any such property, right or liability, shall be continued by or against the transferee to the exclusion of the transferor.

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Textual Amendments

- F1** Words in Sch. 10 para. 7 inserted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 144(d); S.I. 1993/3106, art. 4, **Sch. 1** (with art. 5, Sch. 2) (amended by S.I. 1994/436, art. 2) and words substituted for those words (1.2.1999) by virtue of 1998 c. 31, s. 137, **Sch. 29 para.7** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).

Modifications etc. (not altering text)

- C4** Sch. 10 paras. 6-8 applied (1.1.1994) by 1993 c. 35, ss. 238, 239, **Sch. 13**, para. 15; S.I. 1993/3106, art. 4, **Sch. 1** (with art. 5, Sch. 2) (amended by S.I. 1994/436, art. 2).
Sch. 10 paras. 6-8 applied (1.11.1996) by 1996 c. 56, ss. 88(1), 583, **Sch. 7 para. 12** (with ss. 1(4), 561, 562, Sch. 39).
Sch. 10 paras. 6-8 extended (1.9.1999) by S.I. 1999/2243, **reg. 44(2)**.
Sch. 10 paras. 6-8 applied (1.9.1999) by S.I. 1999/2262, **reg. 44(2)**.
Sch. 10 paras. 2-10 applied (with modifications) (W.) (31.7.2000) by S.I. 1999/362, **reg. 54A(1)** (as substituted (W.) (31.7.2000) by 2000/1867, reg. 2, Sch.)
- C5** Sch. 10 paras. 6-8 applied (1.9.1999) by 1998 c. 31, s. 76, **Sch. 22 Pt. III para. 9(2)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C6** Sch. 10 para. 7 extended (10.3.1999) by S.I. 1999/362, **reg. 25**.
- C7** Sch. 10 para. 7 applied (with modifications) (10.3.1999) by S.I. 1999/362, **reg. 54(6)(a)**
Sch. 10 para. 7 applied (with modifications) (E.) (31.12.1999) by S.I. 1999/362, **regs. 54A(1), 54C(1)**, (as substituted (E.) (31.12.1999) by S.I. 1999/3297, **reg. 2**)

- 8 The provisions of paragraphs 6 and 7 above shall have effect for the interpretation of agreements subject to the context, and shall not apply where the context otherwise requires.

Modifications etc. (not altering text)

- C8** Sch. 10 paras. 6-8 applied (1.1.1994) by 1993 c. 35, ss. 238, 239, **Sch. 13**, para. 15; S.I. 1993/3106, art. 4, **Sch.1** (with art. 5, Sch. 2) (amended by S.I. 1994/436, art.2).
Sch. 10 paras. 6-8 applied (1.11.1996) by 1996 c. 56, ss. 88(1), 583, **Sch. 7 para. 12** (with ss. 1(4), 561, 562, Sch. 39).
Sch. 10 paras. 6-8 applied (1.9.1999) by 1998 c. 31, s. 76, **Sch. 22 Pt. III para. 9(2)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
Sch. 10 paras. 6-8 extended (1.9.1999) by S.I. 1999/2243, **reg. 44(2)**.
Sch. 10 paras. 6-8 applied (1.9.1999) by S.I. 1999/2262, **reg. 44(2)**.
- C9** Sch. 10 para. 8 extended (10.3.1999) by S.I. 1999/362, **reg. 25**.
- C10** Sch. 10 para. 8 applied (with modifications) (10.3.1999) by S.I. 1999/362, **reg. 54(6)(a)**
Sch. 10 para. 8 applied (with modifications) (E.) (31.12.1999) by S.I. 1999/362, **regs. 54A(1), 54C(1)** (as substituted (E.) (31.12.1999) by S.I. 1999/3297, **reg. 2**)
Sch. 10 paras. 2-10 applied (with modifications) (W.) (31.7.2000) by S.I. 1999/362, **reg. 54A(1)** (as substituted (31.7.2000) by 2000/1867, reg. 2, Sch. 2)
Sch. 10 paras. 2-10 applied (with modifications) (W.) (31.7.2000) by S.I. 1999/362, **reg. 54A(1)** (as substituted (W.) (31.7.2000) by 2000/1867, reg. 2, Sch.)

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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. 120(4A) inserted by [2022 asc 1 Sch. 4 para. 5\(2\)](#)
- s. 124A(9A)(9B) inserted by [2022 asc 1 s. 137\(3\)](#)
- s. 125(8)(9) inserted by [2022 asc 1 s. 138\(2\)](#)
- s. 128(1)(b)(iib) omitted by [2011 c. 21 Sch. 16 para. 8](#)
- s. 128(1)(b)(iia) omitted by [2015 c. 20 Sch. 14 para. 35](#)
- s. 128(1A)-(1C) inserted by [2022 asc 1 s. 139\(3\)](#)
- s. 128(7)-(10) inserted by [2022 asc 1 s. 139\(6\)](#)
- s. 232(4ZA)-(4ZC) inserted by [2022 asc 1 s. 138\(3\)\(b\)](#)