



Education Reform Act 1988

1988 CHAPTER 40

PART IV

MISCELLANEOUS AND GENERAL

Establishment and functions of Education Assets Board

198 Transfers under Parts I and II.

- ^{F1}[(1) This section applies to any transfer under any of the following provisions, namely—
- (a) section 126 or 130 of this Act,
 - (b) Schedule 21 to the School Standards and Framework Act 1998 (“the 1998 Act”), or
 - (c) any regulations made—
 - (i) under section 21(5) or (9) of that Act, or
 - (ii) under paragraph 10 of Schedule 2 or paragraph 5 of Schedule 8 to that Act; ^{F2}or
 - (d) Part 3 of Schedule 4 to the School Standards and Organisation (Wales) Act 2013;]

and those provisions, so far as relating to transfers under them, shall in each case have effect subject to Schedule 10 to this Act.

(1A) However, nothing in—

- (a) the provisions of that Schedule other than paragraph 2(4), or
- (b) subsection (3) below,

applies in relation to any transfer agreement falling to be made under paragraph 4 or 7 of Schedule 21 to the 1998 Act or any corresponding provision of regulations under that Act.

(2) Schedule 10 to this Act has effect for the purpose of—

- (a) dividing and apportioning property, rights and liabilities which fall to be transferred under any transfer to which this section applies by a transferor

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- authority or body where that property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one school or other educational institution;
- (b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer;
 - (c) providing for identifying and defining the property, rights and liabilities which fall to be transferred under a transfer to which this section applies; and
 - (d) making supplementary and consequential provisions in relation to such transfers.
- (3) In carrying out the functions conferred or imposed on them by that Schedule—
- (a) the Education Transfer Council—
 - (i) shall, subject to subsection (4) below, not act on behalf of the transferor, the transferee or any other interested person, but
 - (ii) shall seek to ensure that all such persons' interests are protected; and
 - (b) it shall be the duty of the Council, so far as it is reasonably practicable for them to do so, to secure that each transfer to which this section applies is, so far as possible, fully effective on the date on which it takes effect under this Act or under or by virtue of the 1998 Act.
- (4) Where the transferor under any such transfer is a local authority and in accordance with that Schedule anything falls to be or may be done by the Council for the purposes of or in connection with that transfer—
- (a) it may not be done by the transferee; and
 - (b) in doing it the Council shall be regarded as acting on behalf and in the name of the transferee;
- and in a case where the transferee is a body corporate established under this Act or the 1998 Act paragraph (b) above applies both in relation to things done before and in relation to things done after that body is established under this Act or the 1998 Act.]
- (5) Not later than the end of the period of six months beginning with the transfer date applicable in relation to any transfer to a higher education corporation under section 126 of this Act, [^{F3}the Council] shall provide [^{F4}the higher education funding council] with a written statement giving such particulars of all property, rights and liabilities transferred to that corporation as are then available to [^{F3}the Council].
- (6) If in any case within subsection (5) above full particulars of all property, rights and liabilities transferred to the corporation concerned are not given in the statement required under that subsection, [^{F3}the Council] shall provide that Council with a further written statement giving any such particulars omitted from the earlier statement as soon as it is possible for them to do so.

Textual Amendments

- F1** S. 198(1)-(4) substituted (1.2.1999) by 1998 c. 31, s. 137, **Sch. 29 para. 2(2)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1**.
- F2** S. 198(1)(d) and word inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 14(2)**; S.I. 2013/1800, art. 3(j)
- F3** Words in s. 198(5)(6) substituted (1.2.1999) by 1998 c. 31, s. 137, **Sch. 29 para. 2(3)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).
- F4** Words in s. 198(5) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. 1 para. 44**; S.I. 1992/831, art. 2, **Sch. 3**.

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Modifications etc. (not altering text)

- C1** 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).
- C2** S. 198 applied (with modifications) (1.9.1999) by [School Standards and Framework Act 1998 c. 31, s. 74, Sch. 21 Pt. 1 para. 2\(3\)](#) (with [ss. 138\(9\), 144\(6\)](#)); [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#).
- C3** S. 198 applied (with modifications) (10.3.1999) by [The Education \(Transition to New Framework\) \(New Schools, Groups and Miscellaneous\) Regulations 1999 \(S.I. 1999/362\)](#), [regs. 54\(6\)\(a\), 54A, 54C](#) (as amended (E.) (31.12.1999) by [S.I. 1999/3297](#), [reg. 2](#); and (W.) (31.7.2000) by [S.I. 2000/1867](#), [reg. 2, Sch.](#))
S. 198 applied (with modifications) (1.1.2001) by [The Education \(New Procedures for Property Transfers\) Regulations 2000 \(S.I. 2000/3209\)](#), [regs. 5, 6, 15, 16, Sch. 1, Sch. 3](#)
- C4** S. 198 applied (E.) (25.5.2007) by [The School Governance \(Federations\) \(England\) Regulations 2007 \(S.I. 2007/960\)](#), [regs. 1\(1\), 41\(2\), 46\(2\)](#)
- C5** S. 198 applied (W.) (12.4.2010) by [The Federation of Maintained Schools and Miscellaneous Amendments \(Wales\) Regulations 2010 \(S.I. 2010/638\)](#), [regs. 1\(1\), 10\(2\), 80\(2\), 86\(2\)](#)
- C6** S. 198 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](#))
- C7** S. 198 applied (22.5.2014) by [The Federation of Maintained Schools \(Wales\) Regulations 2014 \(S.I. 2014/1132\)](#), [regs. 1\(1\), 13\(2\), 84\(2\), 91\(2\)](#)

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Changes and effects yet to be applied to :

- s. 198(5) words substituted by [2022 asc 1 Sch. 4 para. 5\(6\)](#)

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\(3\)\(b\)](#)