

Changes to legislation: School Standards and Framework Act 1998, SCHEDULE 22 is up to date with all changes known to be in force on or before 16 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 22

Section 76.

DISPOSALS OF LAND IN CASE OF CERTAIN SCHOOLS AND DISPOSALS ON DISCONTINUANCE

Modifications etc. (not altering text)

- C1** Sch. 22 excluded (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), Sch. 1 para. 10(2)(c); S.I. 2010/1937, art. 2, Sch. 1

[^{F1}PART A1

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS IN ENGLAND: DISPOSALS OF LAND

Textual Amendments

- F1** Sch. 22 Pt. A1 inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 2; S.I. 2007/935, art. 7(p)

Disposal of land by governing body of foundation, voluntary or foundation special school

- A1** (1) This paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school in England of—
- (a) any land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
 - (b) any land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8;
 - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
 - [^{F2}paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,]
 - (c) any land acquired under any regulations made under—
 - section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
 - section 27 of that Act by virtue of subsection (2)(b) of that section,
 - (d) any land acquired from a foundation body,
 - (e) any land acquired from the Funding Agency for Schools,

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- (f) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
 - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (h) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the [^{F3}local authority] as expenditure of a capital nature, or
 - (i) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (h).
- (2) But this paragraph does not apply to any disposal which—
- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
 - (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation established otherwise than under this Act.
- (3) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.
- (4) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

Textual Amendments

- F2** Words in [Sch. 22 para. A1\(1\)\(b\)](#) inserted (1.2.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\)](#), [Sch. 14 para. 3](#); [S.I. 2012/84, art. 3](#) (with [art. 5](#))
- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s [Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [art. 1](#), [Sch. 2 para. 10\(2\)](#) (with [Sch. 2 para. 10\(4\)](#))

[^{F4}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

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- (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.]

Textual Amendments

- F4** Sch. 22 para. A1A inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 4; S.I. 2012/84, art. 3 (with art. 5)

- A2 ^{F5}(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.]
- (4) The governing body must give the ^{F3}[local authority] notice of their intention to dispose of the land.
 - (5) That notification must specify—
 - (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
 - (6) For the purposes of this paragraph and paragraphs A3 and A4, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A1.
 - (7) The authority may, within the requisite period, give the governing body any or all of the following—
 - (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
 - (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the governing body gave notification of the disposal to the authority under sub-paragraph (4).
 - (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the governing body notice to that effect.

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- (10) The governing body may not make the disposal within the requisite period unless within that period—
- (a) the authority give the governing body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the governing body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (a) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A3(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the governing body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A3(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A3(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s [Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

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F5 Sch. 22 para. A1(1) substituted for Sch. 22 para. A1(1)-(3) (1.2.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\)](#), [Sch. 14 para. 5](#); [S.I. 2012/84, art. 3](#) (with [art. 5](#))

- A3**
- (1) Where the authority give the governing body notice of their objection to the disposal in accordance with paragraph A2(7)(a), the governing body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
 - (2) Where the authority give the governing body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
 - (a) by agreement between the governing body and the authority, or
 - (b) by the adjudicator where—
 - (i) the governing body or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.
 - (3) Where the authority give the governing body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), the amount of those proceeds which it is appropriate for the governing body to pay to the authority (the “appropriate amount”) is to be determined—
 - (a) by agreement between the governing body and the authority, or
 - (b) by the adjudicator where—
 - (i) the governing body or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.
 - (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the governing body or, as the case may be, the authority, must give the other notice of their intention to make the reference.
 - (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
- A4**
- (1) This paragraph applies where the disposal is made.
 - (2) The governing body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
 - (3) Where—
 - (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A3(3) to be an amount greater than zero,
 the governing body must pay the “appropriate amount” to the authority.
 - (4) The governing body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.

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- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the governing body must ensure that the surplus amount is used on relevant capital expenditure.
- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A2(7)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A2(9),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A2(4), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A3(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A3(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A2(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A2(7)(b) or (c)).
- A5 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A2(7)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The governing body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the governing body must give [^{F6}notice of their intention to do so to the authority mentioned in sub-paragraph (1)(a)].
- [In this paragraph “local authority” includes a non-metropolitan district council for ^{F7}(4) an area for which there is a county council.]

Textual Amendments

- F6** Words in Sch. 22 para. A5(3) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(14)(a)(i)**
- F7** Sch. 22 para. A5(4) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(14)(a)(ii)**

- A6 (1) For the purposes of paragraphs A2 to A4, “relevant capital expenditure”, in relation to a disposal of land by the governing body of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—

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- (a) the school,
- (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
- (c) any proposed foundation, voluntary or foundation special school, or Academy.

(2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Textual Amendments

- F2** Words in Sch. 22 para. A1(1)(b) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 3**; S.I. 2012/84, art. 3 (with art. 5)
- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F4** Sch. 22 para. A1A inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 4**; S.I. 2012/84, art. 3 (with art. 5)
- F5** Sch. 22 para. A1(1) substituted for Sch. 22 para. A1(1)-(3) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 5**; S.I. 2012/84, art. 3 (with art. 5)
- F6** Words in Sch. 22 para. A5(3) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(a)(i)**
- F7** Sch. 22 para. A5(4) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(a)(ii)**

Disposal of land by foundation body

- A7 (1) This paragraph applies to any disposal by a foundation body in England of—
- (a) any land acquired under any of the following—
 - paragraph 2, 4 or 9 of Schedule 3;
 - paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5 or 6 of Schedule 21;
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (b) any land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;
 - any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,

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[^{F8}paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,]

- (c) any land acquired from the governing body of a maintained school,
 - (d) any land acquired from another foundation body,
 - (e) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment),
 - (f) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (g) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the [^{F3}local authority] as expenditure of a capital nature, or
 - (h) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (g).
- (2) A “foundation body in England” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a [^{F3}local authority] in England.
- (3) But this paragraph does not apply to any disposal which—
- (a) is made by a foundation body after the commencement of this sub-paragraph, and
 - (b) is a disposal to the trustees of a foundation or foundation special school made on the school leaving the group for which the foundation body acts and becoming a school with a foundation established otherwise than under this Act.
- (4) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (5) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

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Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F8** Words in **Sch. 22 para. A7(1)(b)** inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 6**; S.I. 2012/84, art. 3 (with art. 5)

[^{F9}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.]

Textual Amendments

- F9** **Sch. 22 para. A7A** inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 7**; S.I. 2012/84, art. 3 (with art. 5)

A8 [^{F10}(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.]

(4) The foundation body must give the [^{F3}local authority] notice of its intention to dispose of the land.

(5) That notification must specify—

(a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and

(b) the estimated amount of the proceeds of disposal.

(6) For the purposes of this paragraph and paragraphs A9 and A10, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as

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mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A7.

- (7) The authority may, within the requisite period, give the foundation body any or all of the following—
- (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the foundation body gave notification of the disposal to the authority under sub-paragraph (4).
- (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the foundation body notice to that effect.
- (10) The foundation body may not make the disposal within the requisite period unless within that period—
- (a) the authority give the foundation body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the foundation body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (a) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A9(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the foundation body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A9(2), or

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- (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A9(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))
- F10** Sch. 22 para. A7(1) substituted for Sch. 22 para. A7(1)-(3) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 8; S.I. 2012/84, art. 3 (with art. 5)

- A9 (1) Where the authority give the foundation body notice of their objection to the disposal in accordance with paragraph A8(7)(a), the foundation body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the foundation body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the foundation body and the authority, or
 - (b) by the adjudicator where—
 - (i) the foundation body refers or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.
- (3) Where the authority give the foundation body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7) (c), the amount of those proceeds which it is appropriate for the foundation body to pay to the authority (the “appropriate amount”) is to be determined—
- (a) by agreement between the foundation body and the authority, or
 - (b) by the adjudicator where—
 - (i) the foundation body refers or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.
- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3) (b), the foundation body or, as the case may be, the authority, must give the other notice of its or their intention to make the reference.

Changes to legislation: *School Standards and Framework Act 1998, SCHEDULE 22 is up to date with all changes known to be in force on or before 16 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*

- (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
- A10 (1) This paragraph applies where the disposal is made.
- (2) The foundation body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
- (3) Where—
- (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A9(3) to be an amount greater than zero,
- the foundation body must pay the “appropriate amount” to the authority.
- (4) The foundation body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the foundation body must ensure that the surplus amount is used on relevant capital expenditure.
- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A8(7)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A8(9),

the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A8(4), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A9(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A9(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A8(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A8(7) (b) or (c)).
- A11 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A8(7)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The foundation body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.

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- (3) Before making an application under sub-paragraph (2), the foundation body must give ^{F11}notice of their intention to do so to the authority mentioned in sub-paragraph (1)(a)].

[In this paragraph “local authority” includes a non-metropolitan district council for ^{F12}(4) an area for which there is a county council.]

Textual Amendments

- F11** Words in Sch. 22 para. A11(3) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(14)(b)(i)**
- F12** Sch. 22 para. A11(4) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(14)(b)(ii)**

- A12 (1) For the purposes of paragraphs A8 to A10, “relevant capital expenditure”, in relation to a disposal of land by a foundation body, means capital expenditure in relation to the premises of—
- any of the schools comprising the group for which the body acts,
 - any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F8** Words in Sch. 22 para. A7(1)(b) inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 14 para. 6**; S.I. 2012/84, art. 3 (with art. 5)
- F9** Sch. 22 para. A7A inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 14 para. 7**; S.I. 2012/84, art. 3 (with art. 5)
- F10** Sch. 22 para. A7(1) substituted for Sch. 22 para. A7(1)-(3) (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 14 para. 8**; S.I. 2012/84, art. 3 (with art. 5)
- F11** Words in Sch. 22 para. A11(3) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(14)(b)(i)**
- F12** Sch. 22 para. A11(4) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(14)(b)(ii)**

Disposal of land by trustees of foundation, voluntary or foundation special school

- A13 (1) This sub-paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school in England of—
- any land acquired under section 60, 61 or 70 of the Education Act 1996,

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- (b) any land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (c) any land acquired under any of the following—
 - paragraph 4 or 9 of Schedule 3;
 - paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
 - (d) any land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
 - [^{F13}paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,]
 - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the [^{F3}local authority] as expenditure of a capital nature,
 - (f) any land acquired from the Funding Agency for Schools,
 - (g) any land acquired, or enhanced in value, wholly or partly by means of—
 - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
 - (ii) any grant paid under section 216(2) of that Act,
 - (h) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (f) or (g),
 - (i) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996),
 - (j) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27, or
 - (k) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (j).
- (2) This sub-paragraph applies to any disposal by the trustees of a foundation or foundation special school in England of—
- (a) any land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
 - (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,

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- (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or
 - (iii) acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
 - (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
- (3) This sub-paragraph applies to any disposal by the trustees of a voluntary school in England of—
 - (a) any land acquired by the trustees from the governing body of the school which was land acquired by the governing body—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) wholly or partly with the proceeds of disposal of any land so acquired,
 and transferred by the governing body to be held on trust by the trustees, or
 - (b) in the case of a school to which sub-paragraph (4) applies, any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
- (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.
- (5) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
 - (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (6) An “appropriate statement” in relation to expenditure is a statement in writing which—
 - (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- (7) Where the trustees of a foundation, voluntary or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools [^{F14}or Academies] the preceding provisions of this paragraph and paragraphs [^{F15}A13A to A16] apply (subject to the modifications specified in paragraphs A14(18), A15(5) and A16(9)) as if any such change of use of the land were a disposal of the land.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

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- F13** Words in Sch. 22 para. A13(1)(d) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 9(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F14** Words in Sch. 22 para. A13(7) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 9(3)(a)**; S.I. 2012/84, art. 3 (with art. 5)
- F15** Words in Sch. 22 para. A13(7) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 9(3)(b)**; S.I. 2012/84, art. 3 (with art. 5)

[(1) This paragraph applies to a disposal of land to which sub-paragraph (1), (2) or (3) ^{F16}A13A 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—
- references to the disposal are to the disposal by the trustees of the non-playing field land, and
 - 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—
- land acquired under section 60 or 61 of the Education Act 1996, or
 - 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—
- 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
 - 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.]

Textual Amendments

- F16** Sch. 22 para. A13A inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 10**; S.I. 2012/84, art. 3 (with art. 5)

A14^{F17}(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.]

- (6) The trustees must give the [^{F3}local authority] notice of their intention to dispose of the land.

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- (7) That notification must specify—
- (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
- (8) For the purposes of this paragraph and paragraphs A15 and A16, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1), (2) or (3) of paragraph A13.
- (9) The authority may, within the requisite period, give the trustees any or all of the following—
- (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (10) The “requisite period” means the period of 6 weeks beginning with the date upon which the trustees gave notification of the disposal to the authority under sub-paragraph (6).
- (11) A notice given under sub-paragraph (9) may be withdrawn at any time by the authority giving the trustees notice to that effect.
- (12) The trustees may not make the disposal within the requisite period unless within that period—
- (a) the authority give the trustees notice that they relinquish any right to give notice under sub-paragraph (9)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the relevant requirements in relation to such a notice are met.
- (13) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the trustees may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (9) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A15(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (11).
- (15) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (9)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (9)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (9)(c),
- the trustees may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.

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- (16) The “relevant requirements” in relation to a notice given under sub-paragraph (9) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A15(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (11).
- (17) The “relevant requirements” in relation to a notice given under sub-paragraph (9) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A15(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (11).
- (18) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
- (a) in sub-paragraph (7) for paragraphs (a) and (b) substitute “the purposes for which it is proposed the land is to be used”,
 - (b) in sub-paragraph (9)—
 - (i) omit paragraphs (a) and (c), and
 - (ii) in paragraph (b), for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
 - (c) in sub-paragraph (15)—
 - (i) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
 - (ii) for “use the publicly funded proceeds of disposal” substitute “use the land for purposes not connected with the provision of education in maintained schools”, and
 - (d) in sub-paragraph (16)—
 - (i) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has” substitute “purposes for which the land is to be used have”, and
 - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F17** Sch. 22 para. A14(1) substituted for Sch. 22 para. A14(1)-(5) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 11**; S.I. 2012/84, **art. 3** (with art. 5)

- A15 (1) Where the authority give the trustees notice of their objection to the disposal in accordance with paragraph A14(9)(a), the trustees or the authority may refer the

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matter to the adjudicator for a determination by him as to whether he approves the disposal.

- (2) Where the authority give the trustees notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
 - (a) by agreement between the trustees and the authority, or
 - (b) by the adjudicator where—
 - (i) the trustees or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
 - (3) Where the authority give the trustees notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), the amount of those proceeds which it is appropriate for the trustees or their successors to pay to the authority (the “appropriate amount”) is to be determined—
 - (a) by agreement between the trustees and the authority, or
 - (b) by the adjudicator where—
 - (i) the trustees or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
 - (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the trustees or, as the case may be, the authority, must give the other notice of their intention to make the reference.
 - (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
 - (6) In the application of this paragraph in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, sub-paragraph (2) is modified as follows—
 - (a) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
 - (b) for “relevant capital expenditure upon which those proceeds are to be used is” substitute “purposes for which the land is to be used are”.
- A16 (1) This paragraph applies where the disposal is made.
- (2) The trustees must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
 - (3) Where—
 - (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A15(3) to be an amount greater than zero,
 the trustees or their successors must pay the “appropriate amount” to the authority.

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- (4) The trustees and their successors must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the trustees and their successors must ensure that the surplus amount is used on relevant capital expenditure.
- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A14(9)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A14(11),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A14(6), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A15(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A15(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A14(15) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A14(9) (b) or (c)).
- (9) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
- (a) in sub-paragraph (2) omit the words from “and of the amount” to the end,
 - (b) in sub-paragraph (4) for “remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure” substitute “land is used for the agreed purposes”,
 - (c) omit sub-paragraph (5), and
 - (d) in sub-paragraph (6)—
 - (i) for “agreed relevant capital expenditure” substitute “agreed purposes”,
 - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
 - (iii) for “relevant capital expenditure” substitute “proposed purposes”, and
 - (iv) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used” substitute “purposes for which the land is to be used”.
- A17 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A14(9)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.

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- (2) The trustees may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the trustees must give [F18 notice of their intention to do so to the authority mentioned in sub-paragraph (1) (a)].
- [In this paragraph “local authority” includes a non-metropolitan district council for F19(4) an area for which there is a country council.]

Textual Amendments

- F18** Words in Sch. 22 para. A17(3) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(c)(i)**
- F19** Sch. 22 para. A17(4) inserted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(c)(ii)**

- A18 (1) For the purposes of paragraphs A14 to A16, “relevant capital expenditure”, in relation to a disposal of land by the trustees of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—
- the school,
 - any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F13** Words in Sch. 22 para. A13(1)(d) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 9(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F14** Words in Sch. 22 para. A13(7) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 9(3)(a)**; S.I. 2012/84, art. 3 (with art. 5)
- F15** Words in Sch. 22 para. A13(7) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 9(3)(b)**; S.I. 2012/84, art. 3 (with art. 5)
- F16** Sch. 22 para. A13A inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 10**; S.I. 2012/84, art. 3 (with art. 5)
- F17** Sch. 22 para. A14(1) substituted for Sch. 22 para. A14(1)-(5) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 11**; S.I. 2012/84, art. 3 (with art. 5)
- F18** Words in Sch. 22 para. A17(3) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(c)(i)**

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F19 Sch. 22 para. A17(4) inserted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(14)(c)(ii)**

Duty to have regard to guidance etc

A19 [In determining whether, and how, to give notice to the Secretary of State under ^{F20}(A1) 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.]

- (1) A [^{F3}local authority], a governing body, a foundation body and trustees must have regard, in particular, to any guidance given from time to time by the Secretary of State—
 - (a) in determining whether to give a notice, or make a reference or application to the adjudicator, under any of paragraphs A2 to A17, or
 - (b) in determining the publicly funded proceeds of disposal or the “appropriate amount” for the purposes of any of those paragraphs.
- (2) In determining any matter for the purposes of any of the provisions mentioned in sub-paragraph (1), the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (3) In addition to having regard to guidance as required under sub-paragraph (1)(b) or (2), a [^{F3}local authority], a governing body, a foundation body, trustees and the adjudicator, must also have regard, in particular, to the factors mentioned in sub-paragraph (4) in determining any of the following for the purposes of any of paragraphs A2 to A17—
 - (a) the publicly funded proceeds of disposal;
 - (b) the “appropriate amount”;
 - (c) the amount of the consideration (if any) to be paid under paragraph A5, A11 or A17.
- (4) The factors referred to in sub-paragraph (3) are—
 - (a) in the case of any disposal, the value of the land as at the date of the determination,
 - (b) in the case of any disposal, any enhancement in value of the land attributable to expenditure on the land by the [^{F3}local authority] or a relevant person,
 - (c) in the case of any disposal, any expenditure on the land by a relevant person,
 - (d) in the case of any disposal, any relevant payments made by a relevant person to the [^{F3}local authority] or the Secretary of State,
 - (e) in the case of any disposal, to the extent that they do not fall within paragraph (c) or (d), any payments in respect of the acquisition of the land, and
 - (f) in the case of a disposal falling within paragraph A1(1)(i), paragraph A7(1)(h) or paragraph A13(1)(h) or (k), (2)(a)(iii) or (b), or (3)(a)(ii), the extent to which the proceeds of disposal mentioned in the provision in question were publicly funded proceeds of disposal as defined for the purposes of paragraph A2, A8 or A14, as the case may be.
- (5) A “relevant person” means—
 - (a) in the case of a disposal to which paragraph A2 or A14 applies, the governing body or the trustees of the school in question, and

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- (b) in the case of a disposal to which paragraph A8 applies, the foundation body in question.
- (6) A “relevant payment” means—
- (a) in the case of any disposal, a payment in respect of the current school site or sites to which the land relates,
 - (b) in the case of any disposal, a payment under any of the following provisions—
 - paragraph 2(6) of Schedule 3;
 - paragraph 16(5) of Schedule 6 (including that provision as applied by any enactment);
 - section 60(4) of the Education Act 1996;
 - paragraph 28(5) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment), and
 - (c) in the case of a disposal of land falling within any of the following provisions—
 - paragraph A1(1)(f) or (g);
 - paragraph A7(1)(e) or (f);
 - paragraph A13(1)(g), (i) or (j),
 a payment in respect of the grant mentioned in the provision in question.
- (7) The reference in sub-paragraph (5)(a) to the governing body or the trustees of the school in question includes—
- (a) where the school was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,
 - (b) where the school was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a [^{F3}local authority], the persons by whom the proposals were made, and
 - (c) where the school was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a [^{F3}local authority], by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.
- (8) The reference in sub-paragraph (5)(b) to the foundation body in question includes—
- (a) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,
 - (b) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a [^{F3}local authority], the persons by whom the proposals were made, and
 - (c) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a [^{F3}local authority], by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.

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Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F20** Sch. 22 para. A19(A1) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 12**; S.I. 2012/84, art. 3 (with art. 5)

Power to vary or revoke determinations or orders

- A20 (1) A determination made by the adjudicator on a reference made to him under any of paragraphs A3 to A15 may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by a relevant person in relation to the determination, and
 - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (2) A “relevant person” in relation to a determination means—
- (a) the [^{F3}local authority], governing body, foundation body or trustees who made the reference to the adjudicator in relation to which the determination was made, or
 - (b) any other of those persons who could have made that reference.
- (3) In determining whether to make a reference to the adjudicator under sub-paragraph (1)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4) An order made by the adjudicator on an application under paragraph A5, A11 or A17 may be varied or revoked by a further order made by him if—
- (a) an application for its variation or revocation is made to him by an appropriate person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (5) An “appropriate person” in relation to an order made under paragraph A5, A11 or A17 means—
- (a) the governing body, the foundation body or the trustees, as the case may be, who applied for the order,
 - (b) the [^{F3}local authority], or
 - (c) if different from that authority, the local authority [^{F21}(within the meaning of paragraph A5, A11 or A17 as the case may be)] to whom land is required to be transferred under the order.
- (6) In determining whether to make an application to the adjudicator under sub-paragraph (4)(a), an appropriate person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (7) Paragraph A19 applies in relation to the further determination by the adjudicator, by virtue of sub-paragraph (1) or (4), of any matter for the purposes of any of paragraphs A2 to A17 as it applies in relation to the original determination of the matter.

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Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F21** Words in Sch. 22 para. A20(5)(c) inserted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(d)**

Meaning of “capital expenditure”

- A21 (1) This paragraph applies to the references to capital expenditure in the definition of “relevant capital expenditure” in paragraphs A6, A12 and A18.
- (2) Subject to sub-paragraphs (3) and (4), such references are references to—
- (a) in the case of paragraph A6, expenditure which, if it were to be incurred by the governing body, would fall to be capitalised in accordance with proper accounting practices;
 - (b) in the case of paragraph A12, expenditure which, if it were to be incurred by the foundation body, would fall to be capitalised in accordance with proper accounting practices;
 - (c) in the case of paragraph A18, expenditure which, if it were to be incurred by the trustees, would fall to be capitalised in accordance with proper accounting practices.
- (3) The Secretary of State may by regulations prescribe classes or descriptions of expenditure which are to be treated—
- (a) for the purposes of paragraph A6 as being, or as not being, capital expenditure of any governing body, or any prescribed class or description of governing body;
 - (b) for the purposes of paragraph A12 as being, or as not being, capital expenditure of any foundation body, or any prescribed class or description of foundation body;
 - (c) for the purposes of paragraph A18 as being, or as not being, capital expenditure of any trustees, or any prescribed class or description of trustee.
- (4) The Secretary of State may by direction provide that—
- (a) expenditure of a particular governing body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A6 as being, or as not being, capital expenditure of that body;
 - (b) expenditure of a particular foundation body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A12 as being, or as not being, capital expenditure of that body;
 - (c) expenditure of particular trustees, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A18 as being, or as not being, capital expenditure of those persons.
- (5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.
- A22 (1) For the purposes of paragraph A21, “proper accounting practices”, in relation to a governing or foundation body, or to trustees, means those accounting practices—

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- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by that body, or as the case may be, those persons, or
 - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the relevant [^{F3}local authority].
- (2) The “relevant [^{F3}local authority]” means the [^{F3}local authority] to whom notice of the disposal in question is required to be given under paragraph A2, A8 or A14.
- (3) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.

Textual Amendments

F3 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

Textual Amendments

F3 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

Land required by [^{F3}local authority] for certain purposes

- A23 (1) A [^{F3}local authority] in England may apply to the adjudicator for a transfer order under this paragraph in relation to publicly funded land which—
- (a) is held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school,
 - (b) is held by a foundation body for the purposes of the group of schools for which it acts, or
 - (c) is held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school.
- (2) A transfer order is an order requiring the land in relation to which it is made to be transferred by the body or trustees holding it to the authority, subject to the payment by the authority of such sum by way of consideration (if any) as the adjudicator determines to be appropriate.
- (3) In determining whether to make an application under sub-paragraph (1) for a transfer order, a [^{F3}local authority] must have regard, in particular, to any guidance given from time to time by the Secretary of State.

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- [^{F22}(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.]
- (5) An application under sub-paragraph (1) must state the purpose for which the land to which it relates is required by the authority (“the stated purpose”).
- (6) In relation to the content of [^{F23}an application under sub-paragraph (1) or a notice under sub-paragraph (4)], a [^{F3}local authority] must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- [On receipt of a notice under sub-paragraph (4)(b), the Secretary of State must—
- ^{F24}(6A) (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.]
- (7) Where an application is made under sub-paragraph (1) for a transfer order in relation to publicly funded land, the adjudicator may make a transfer order if he is satisfied that—
- (a) the land is not required for the purposes of the school or, as the case may be, the schools in the group,
 - (b) the land is required by the authority for the stated purpose,
 - (c) the stated purpose is a qualifying purpose, and
 - (d) it is appropriate for the land to be used for that purpose.
- (8) For the purposes of sub-paragraph (7)(c) the stated purpose is a qualifying purpose if it falls within one or more of the following descriptions of purpose—
- (a) the land is required for the purposes of any school or institution which is, or is to be, maintained by the authority, or which they have power to assist;
 - (b) the land is otherwise required for the purposes of the exercise of any of the [^{F25}education] functions of the authority;
 - (c) the land is required for the provision of children’s services by or on behalf of the [^{F26}authority in the exercise of any of their relevant functions].
- (9) For the purposes of sub-paragraph (8)(c)—
- “children’s services” are services provided for or in relation to any of the following persons (whether or not they are also provided for or in relation to any other persons)—
- (a) children;
 - (b) persons aged 18 or 19;
 - (c) persons over the age of 19 who are receiving services under sections 23C to 24D of the Children Act 1989;
 - (d) persons over the age of 19 but under the age of 25 who have a learning difficulty [^{F27}or disability], within the meaning of [^{F28}section 15ZA(6) and (7) of the Education Act 1996], and are receiving services under

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[^{F29}section 15ZA of the Education Act 1996 or section ^{F30}... 86 or 87 of the Apprenticeships, Skills, Children and Learning Act 2009];

“relevant functions” means the functions described in any of paragraphs (a), (c), (d) or (e) of subsection (1) of section 135 of the Education and Inspections Act 2006.

- (10) Before making a transfer order the adjudicator must consult the body or trustees holding the land in relation to which the application for the transfer order is made.
- (11) In determining whether to make a transfer order, the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (12) Where a transfer order is made, the authority must use the land to which it relates for the stated purpose.
- (13) A transfer order made by the adjudicator may be varied or revoked by a further order made by the adjudicator if—
- (a) an application for its variation or revocation is made to him by a relevant person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (14) A “relevant person” in relation to a transfer order means—
- (a) the [^{F3}local authority] who applied for the transfer order, or
 - (b) the body or trustees who held the land to which the order relates.
- (15) In determining whether to make an application to the adjudicator under sub-paragraph (13)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (16) Sub-paragraph (11) applies in relation to the making of a further order by virtue of sub-paragraph (13) as it applies in relation to the making of the original transfer order.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F22** Sch. 22 para. A23(4) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F23** Words in Sch. 22 para. A23(6) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(3)**; S.I. 2012/84, art. 3 (with art. 5)
- F24** Sch. 22 para. A23(6A)(6B) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(4)**; S.I. 2012/84, art. 3 (with art. 5)
- F25** Words in Sch. 22 para. A23(8) inserted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(e)(i)**
- F26** Words in Sch. 22 para. A23(8) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(e)(ii)**
- F27** Words in Sch. 22 Pt. A1 para. A23(9) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 70(a)**; S.I. 2014/889, art. 7(a)

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- F28** Words in Sch. 22 para. A23(9) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 37(a)** (with art. 2(3))
- F29** Words in Sch. 22 para. A23(9) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 37(b)** (with art. 2(3))
- F30** Word in Sch. 22 Pt. A1 para. A23(9) omitted (1.9.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 70(b)**; S.I. 2014/889, art. 7(a)

- A24 (1) For the purposes of paragraph A23, land held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school is “publicly funded land” if it is—
- (a) land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
 - (b) land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8;
 - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
 - (c) land acquired under any regulations made under—
 - section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
 - section 27 of that Act by virtue of subsection (2)(b) of that section,
 - (d) land acquired from a foundation body,
 - (e) land acquired from the Funding Agency for Schools,
 - (f) land acquired wholly by means of—
 - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
 - (ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
 - (g) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (h) land acquired wholly by means of expenditure incurred for the purposes of the school and treated by the [F3local authority] as expenditure of a capital nature, or
 - (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (h).
- (2) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

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- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

Textual Amendments

F3 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

- A25 (1) For the purposes of paragraph A23, land held by a foundation body for the purposes of the group of schools for which it acts is “publicly funded land” if it is—
- (a) land acquired under any of the following—
 - paragraph 2, 4 or 9 of Schedule 3;
 - paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5 or 6 of Schedule 21;
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (b) land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;
 - any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,
 - (c) land acquired from the governing body of a maintained school,
 - (d) land acquired from another foundation body,
 - (e) land acquired wholly by means of—
 - (i) any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), or
 - (ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
 - (f) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,

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- (g) land acquired wholly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the [^{F3}local authority] as expenditure of a capital nature, or
 - (h) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (g).
- (2) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

- A26 (1) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is “publicly funded land” if it is—
- (a) land acquired under section 60, 61 or 70 of the Education Act 1996,
 - (b) land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (c) land acquired under any of the following—
 - paragraph 4 or 9 of Schedule 3;
 - paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
 - (d) land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,

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- (e) land acquired wholly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the [^{F3}local authority] as expenditure of a capital nature,
 - (f) land acquired from the Funding Agency for Schools,
 - (g) land acquired wholly by means of—
 - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
 - (ii) any grant paid under section 216(2) of that Act, or
 - (iii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
 - (h) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (f) to (h), or
 - (j) land acquired wholly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996).
- (2) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation or foundation special school by the trustees of the school is also “publicly funded land” if it is—
- (a) land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
 - (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,
 - (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or
 - (iii) acquired by the governing body wholly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
 - (b) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
- (3) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a voluntary school by the trustees of the school is also “publicly funded land” if it is—
- (a) land acquired by the governing body of the school—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) wholly with the proceeds of disposal of any land so acquired, and transferred by the governing body to be held on trust by the trustees, or
 - (b) in the case of a school to which sub-paragraph (4) applies, land acquired wholly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
- (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.

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- (5) Land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is not “publicly funded land” for the purposes of paragraph A23 if it is—
- (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) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F22** Sch. 22 para. A23(4) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F23** Words in Sch. 22 para. A23(6) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(3)**; S.I. 2012/84, art. 3 (with art. 5)
- F24** Sch. 22 para. A23(6A)(6B) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 13(4)**; S.I. 2012/84, art. 3 (with art. 5)
- F25** Words in Sch. 22 para. A23(8) inserted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(e)(i)**
- F26** Words in Sch. 22 para. A23(8) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(e)(ii)**
- F27** Words in Sch. 22 Pt. A1 para. A23(9) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 70(a)**; S.I. 2014/889, art. 7(a)
- F28** Words in Sch. 22 para. A23(9) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 37(a)** (with art. 2(3))

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- F29** Words in Sch. 22 para. A23(9) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 37\(b\)](#) (with art. 2(3))
- F30** Word in Sch. 22 Pt. A1 para. A23(9) omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 3 para. 70\(b\)](#); S.I. 2014/889, art. 7(a)

Notice in relation to grants under paragraph 5 of Schedule 3

- A27 (1) Where a grant is made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), the Secretary of State may within the relevant period give the body or other persons to whom the grant is made notice that—
- (a) any land acquired, or enhanced in value, wholly or partly by means of the grant is land falling within paragraph A1(1)(g), A7(1)(f) and A13(1)(j), and
 - (b) any land acquired wholly or partly by means of the grant is land falling within paragraph A24(1)(g), A25(1)(f) and A26(1)(h).
- (2) The “relevant period” means the period of 6 months beginning with the date upon which the grant is made.]

PART I

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL
SCHOOLS [^{F31}IN WALES]: DISPOSALS OF LAND

Textual Amendments

- F31** Words in Sch. 22 Pt. 1 heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 3](#); S.I. 2007/935, [art. 7\(p\)](#) (with art. 8(5))

Disposal of land by governing body of foundation, voluntary or foundation special school

- 1 (1) [^{F32}Subject to sub-paragraph (1A),] this paragraph applies to any disposal by the governing body of a foundation [^{F33}or voluntary] school [^{F34}in Wales] of—
- ^{F35}(a) any land acquired under a transfer under section 201(1)(a) of the ^{M1}Education Act 1996, or acquired under paragraph 2 of Schedule 3 or paragraph 16 of Schedule 6 [^{F36}(including that provision as applied by any enactment)] or paragraph 5(4)(c) [^{F37}or 5(4B)(d)] of this Schedule or under any regulations made under paragraph 5 of Schedule 8;
 - ^{F38}(aa) any land acquired under paragraph 7 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under that paragraph as applied by section 76(1) of that Act or under Part 3 of Schedule 4 to that Act;]
 - (b) any land acquired from a foundation body;
 - ^{F39}(c)
 - (d) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the ^{M2}Education Act 1996);

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- (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the [^{F3}local authority] as expenditure of a capital nature; or
- (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).

[^{F40}(1A) This paragraph does not apply to any disposal which—

- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
- (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation [^{F41}established otherwise than under this Act].]

(2) The governing body shall not make [^{F42}any disposal to which this paragraph applies] without the written consent of the [^{F43}Assembly].

(3) Where the governing body apply to the [^{F44}Assembly] for [^{F45}its] consent to any such disposal [^{F46}and [^{F47}the Assembly] decides to give that consent], [^{F47}the Assembly] may do one or more of the following, namely—

- (a) require the land or any part of the land to be transferred to such local authority as [^{F47}the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [^{F47}the Assembly] determines to be appropriate; and
- (b) give the governing body, when the land or any part of the land is disposed of—
 - (i) a direction to pay, either to [^{F48}the Assembly] or to such local authority as [^{F47}the Assembly] may specify, the whole or any part of the proceeds of disposal; and
 - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.

(4) More than one direction may be given under sub-paragraph (3)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.

(5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—

- (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
- (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))

Changes to legislation: School Standards and Framework Act 1998, SCHEDULE 22 is up to date with all changes known to be in force on or before 16 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

- F32** Words in Sch. 22 para. 1(1) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(2)(a)** (with s. 119)
- F33** Words in Sch. 22 para. 1(1) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(a)(i)**; S.I. 2013/1800, **art. 3(j)**
- F34** Words in Sch. 22 para. 1(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F35** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F36** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F37** Words in Sch. 22 para. 1(1)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(2)(b)** (with s. 119)
- F38** Sch. 22 para. 1(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(a)(ii)**; S.I. 2013/1800, **art. 3(j)**
- F39** Sch. 22 para. 1(1)(c) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 4(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F40** Sch. 22 para. 1(1A) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(3)** (with s. 119)
- F41** Words in Sch. 22 para. 1(1A)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F42** Words in Sch. 22 para. 1(2) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(4)** (with s. 119)
- F43** Word in Sch. 22 para. 1(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F44** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F45** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F46** Words in Sch. 22 para. 1(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(5)** (with s. 119)
- F47** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F48** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(c)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Marginal Citations

- M1** 1996 c. 56.
M2 1996 c. 56.

Disposal of land by foundation body

- 2 (1) This paragraph applies to any disposal by a foundation body [^{F49}in Wales] of—
- (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 [^{F50}(including that provision as applied by any enactment)] or paragraph 5 or 6 of Schedule 21 or under any regulations made under paragraph 5 of Schedule 8 ^{F51}...;
 - [^{F52}(aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under either of those

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paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act;]

- (b) any land acquired from the governing body of a maintained school;
- (c) any land acquired from another foundation body;
- (d) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the [^{F53}Assembly] on or after the appointed day;
- (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the [^{F3}local authority] as expenditure of a capital nature; or
- (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).

[^{F54}(1A) A “foundation body in Wales” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a [^{F3}local authority] in Wales.]

- (2) The foundation body shall not make any such disposal without the written consent of the [^{F55}Assembly].
- (3) Where the foundation body apply to the [^{F56}Assembly] for [^{F57}its] consent to any such disposal [^{F58}and [^{F59}the Assembly] decides to give that consent], [^{F59}the Assembly] may do either or both of the following, namely—
 - (a) make any such requirement as is mentioned in paragraph 1(3)(a); and
 - (b) give any such direction to the foundation body as [^{F59}the Assembly] could give to a governing body under paragraph 1(3)(b).
- (4) More than one direction may be given under sub-paragraph (3)(b) to make a payment in relation to the proceeds of disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
 - (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
 - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F49** Words in Sch. 22 para. 2(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

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- F50** Words in Sch. 22 para. 2(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(3)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F51** Words in Sch. 22 para. 2(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F52** Sch. 22 para. 2(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(b)**; S.I. 2013/1800, **art. 3(j)**
- F53** Word in Sch. 22 para. 2(1)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(2)(c)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F54** Sch. 22 para. 2(1A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F55** Word in Sch. 22 para. 2(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F56** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F57** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(5)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F58** Words in Sch. 22 para. 2(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 3** (with s. 119)
- F59** Words in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(5)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

^{F60}Disposal of land by trustees of foundation school ^{F61}...

Textual Amendments

- F60** Sch. 22 para. 2A and cross-heading inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 4** (with s. 119)
- F61** Words in Sch. 22 para. 2A heading omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(viii)**; S.I. 2013/1800, art. 3(j)

- 2A (1) This paragraph applies to any disposal by the trustees of a foundation ^{F62}... school [^{F63}in Wales] of—
- (a) any land acquired under paragraph 2 of Schedule 3, under paragraph 16 of Schedule 6 (including that provision as applied by any enactment), under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8,
 - [^{F64}(aa) any land acquired under paragraph 7 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under that paragraph as applied by section 76(1) of that Act or under Part 3 of Schedule 4 to that Act;]
 - (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (a) [^{F65}or (aa)], or
 - (c) any land falling within sub-paragraph (2) which was acquired by the trustees from the governing body of the school or of another foundation ^{F66}... school.
- (2) Land falls within this sub-paragraph if—
- (a) it had been acquired by the governing body—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996,
 - or

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- (ii) under any of the provisions mentioned in sub-paragraph (1)(a) [^{F67}or (aa)], or
- (b) it had been acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in paragraph (a) [^{F68}or (aa)].
- (3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the [^{F69}Assembly].
- (4) Where the trustees apply to the [^{F70}Assembly] for [^{F71}its] consent to any such disposal and [^{F72}the Assembly] decides to give that consent, [^{F72}the Assembly] may do one or more of the following, namely—
- (a) require the land or any part of the land to be transferred to such local authority as [^{F72}the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [^{F72}the Assembly] determines to be appropriate; and
- (b) give the trustees, when the land or any part of the land is disposed of—
- (i) a direction to pay to such local authority as [^{F72}the Assembly] may specify the whole or any part of the proceeds of the disposal; and
- (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (5) More than one direction may be given under sub-paragraph (4)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Where the trustees of a foundation ^{F73}... school [^{F74}in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
- (b) the value of the land as at the date of any direction under sub-paragraph (4) (b)(i) or (ii) shall be treated as proceeds of the disposal of the land.]

Textual Amendments

- F62** Words in Sch. 22 para. 2A(1) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(i)**; S.I. 2013/1800, art. 3(j)
- F63** Words in Sch. 22 para. 2A(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(2)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F64** Sch. 22 para. 2A(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(ii)**; S.I. 2013/1800, art. 3(j)
- F65** Words in Sch. 22 para. 2A(1)(b) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(iii)**; S.I. 2013/1800, art. 3(j)
- F66** Words in Sch. 22 para. 2A(1)(c) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(iv)**; S.I. 2013/1800, art. 3(j)
- F67** Words in Sch. 22 para. 2A(2)(a)(ii) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(v)**; S.I. 2013/1800, art. 3(j)
- F68** Words in Sch. 22 para. 2A(2)(b) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(vi)**; S.I. 2013/1800, art. 3(j)

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- F69** Word in Sch. 22 para. 2A(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F70** Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F71** Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(4)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F72** Words in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(4)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F73** Words in Sch. 22 para. 2A(6) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(vii)**; S.I. 2013/1800, art. 3(j)
- F74** Words in Sch. 22 para. 2A(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(5)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Disposal of land by trustees of foundation ^{F75}or voluntary] school

Textual Amendments

- F75** Words in Sch. 22 para. 3 heading substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(viii)**; S.I. 2013/1800, art. 3(j)

- 3 (1) [^{F76}Subject to sub-paragraph (2A),] this paragraph applies to any disposal by the trustees of a foundation [^{F77}or voluntary] school [^{F78}in Wales] of—
- (a) any land acquired under section 60, 61 or 70 of the ^{M3}Education Act 1996, under paragraph 2, 4 or 9 of Schedule 3 or paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment)[^{F79}, under paragraph 5(4B)(d) of this Schedule] or under any regulations made under paragraph 5 of Schedule 8 ^{F80}...;
- [^{F81}(aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under those paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act;]
- (b) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the [^{F83}local authority] as expenditure of a capital nature;
- (c) any land acquired by the governing body of the school—
- (i) under a transfer under section 201(1)(a) of the ^{M4}Education Act 1996, or
- (ii) wholly or partly with the proceeds of disposal of any land so acquired,
- and transferred by the governing body to be held on trust by the trustees;
- ^{F82}(d)
- (e) any land acquired, or enhanced in value, wholly or partly by means of—
- (i) any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the ^{M5}Education Act 1996), or
- (ii) any grant paid under section 216(2) of that Act;
- (f) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph ^{F83}... (e); or

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- (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the ^{M6}Education Act 1996).
- (2) If a voluntary aided school [^{F84}in Wales] was, immediately before the appointed day, a controlled school within the meaning of the ^{M7}Education Act 1996, this paragraph also applies to any disposal by the trustees of the school of any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of that Act.
- [^{F85}(2A) Nothing in sub-paragraph (1) applies in relation to any disposal to the extent that it is a disposal to which paragraph 2A applies.]
- (3) Where paragraph (a), [^{F86}(aa),] (b) or (c) of sub-paragraph (1) or sub-paragraph (2) applies, the trustees shall notify the [^{F3}local authority] that that provision applies to them and they or their successors shall pay to the authority so much of the proceeds of disposal as may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the [^{F87}Assembly].
- (4) In making any determination under sub-paragraph (3), the trustees and the authority, or the [^{F88}Assembly], as the case may be, shall have regard in particular to—
- (a) the value, as at the date of the determination, of the land acquired from the authority;
 - (b) any enhancement in value of the land attributable to expenditure by the [^{F3}local authority], the trustees or the governing body of the school on school buildings on the land; and
 - (c) any payments already made by the trustees to the authority—
 - (i) in respect of the current school site; or
 - (ii) under section 60(4) of the ^{M8}Education Act 1996 or under paragraph 2(6) of Schedule 3 or paragraph 16(5) of Schedule 6 to this Act [^{F89}or under paragraph 7(6) of Schedule 3 to the School Standards and Organisation (Wales) Act 2013].
- (5) More than one determination may be made under sub-paragraph (3) in relation to a disposal of land within sub-paragraph (1) or (2) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Sub-paragraph (1)(b) shall not apply in the case of any expenditure unless the authority—
- (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) Sub-paragraph (3) does not apply in the case of land acquired under section 60 or 61 of the ^{M9}Education Act 1996 or 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 ^{M10}Education Act 1996).

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- (8) Where paragraph ^{F90}... (e) or (f) of sub-paragraph (1) applies, the trustees shall notify the [^{F3}local authority] that that paragraph applies to them and they and their successors shall (subject to sub-paragraph (9)) undertake to the authority to use the proceeds of disposal—
- (a) for the purposes of the school, or
 - (b) for the purposes—
 - (i) of any other existing foundation [^{F91}or voluntary] school, or
 - ^{F92}(ii) of any other proposed [^{F93}voluntary] school, whether or not proposals have yet been published under [^{F94}any enactment] in respect of that proposed school.
- (9) Where it appears to the [^{F95}Assembly] that the trustees have not given a suitable undertaking under sub-paragraph (8), the [^{F95}Assembly] may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as [^{F96}the Assembly] determines to be just.
- (10) More than one direction may be given under sub-paragraph (9) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (11) Where paragraph (g) of sub-paragraph (1) applies, the governing body of the school shall repay the grant referred to in that paragraph to the [^{F3}local authority] by whom the school is maintained, unless the governing body and the authority otherwise agree.
- (12) Where the trustees of a foundation [^{F97}or voluntary] school [^{F98}in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
 - (b) the value of the land as at the date of any determination under sub-paragraph (3) or of any direction under sub-paragraph (9) shall be treated as proceeds of the disposal of the land.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F76** Words in Sch. 22 para. 3(1) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(a)** (with s. 119)
- F77** Words in Sch. 22 para. 3(1) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(i)**; S.I. 2013/1800, art. 3(j)
- F78** Words in Sch. 22 para. 3(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F79** Words in Sch. 22 para. 3(1)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(b)** (with s. 119)
- F80** Words in Sch. 22 para. 3(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F81** Sch. 22 para. 3(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(ii)**; S.I. 2013/1800, art. 3(j)

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- F82** Sch. 22 para. 3(1)(d) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(c), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F83** Words in Sch. 22 para. 3(1)(f) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(d), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F84** Words in Sch. 22 para. 3(2) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F85** Sch. 22 para. 3(2A) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(3)** (with s. 119)
- F86** Word in Sch. 22 para. 3(3) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(iii)**; S.I. 2013/1800, art. 3(j)
- F87** Word in Sch. 22 para. 3(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F88** Word in Sch. 22 para. 3(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F89** Words in Sch. 22 para. 3(4)(c)(ii) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(iv)**; S.I. 2013/1800, art. 3(j)
- F90** Word in Sch. 22 para. 3(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(5), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F91** Words in Sch. 22 para. 3(8)(b)(i) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(v)**; S.I. 2013/1800, art. 3(j)
- F92** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F93** Word in Sch. 22 para. 3(8)(b)(ii) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(vi)**; S.I. 2013/1800, art. 3(j)
- F94** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F95** Word in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F96** Words in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F97** Words in Sch. 22 para. 3(12) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(vii)**; S.I. 2013/1800, art. 3(j)
- F98** Words in Sch. 22 para. 3(12) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(7)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Marginal Citations

- M3** 1996 c. 56.
M4 1996 c. 56.
M5 1996 c. 56.
M6 1996 c. 56.
M7 1996 c. 56.
M8 1996 c. 56.
M9 1996 c. 56.
M10 1996 c. 56.

Land required by [F3 local authority] for new school

- 4 (1) This paragraph applies where, on an application made by a [F3 local authority][F99; in Wales], the [F100 Assembly] is satisfied—
- (a) that any relevant land—

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- (i) held, or held on trust, for the purposes of a foundation [^{F101}or voluntary] school by the governing body or the trustees of the school, or
- (ii) held by a foundation body for the purposes of the group of schools for which it acts,
- is not required for the purposes of the school or (as the case may be) those schools; and
- (b) that that land is required by the authority as the site for a new maintained school or as the site to which a maintained school is to be transferred.
- (2) In such a case the [^{F102}Assembly] may by order require the relevant land to be transferred to the authority by the body or trustees holding the land, subject to the payment by the authority of such sum by way of consideration (if any) as [^{F103}the Assembly] determines to be appropriate.
- (3) In this paragraph “relevant land” means land which was acquired by the governing body of the school, or (as the case may be) one of the schools, mentioned in subparagraph (1)(a) under a transfer under section 201(1)(a) of the ^{M11}Education Act 1996.

Textual Amendments

- F99** Words in Sch. 22 para. 4(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(2)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F100** Word in Sch. 22 para. 4(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(2)(b); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F101** Words in Sch. 22 para. 4(1)(a)(i) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(e); S.I. 2013/1800, art. 3(j)
- F102** Word in Sch. 22 para. 4(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(3)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F103** Words in Sch. 22 para. 4(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(3)(b); S.I. 2007/935, art. 7(p) (with art. 8(5))

Marginal Citations

- M11** 1996 c. 56.

PART II

MAINTAINED SCHOOLS: DISPOSALS ON DISCONTINUANCE

Discontinuance of foundation, voluntary and foundation special schools: land

- 5 (1) This paragraph applies where—
- ^{F104}(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted [^{F105}, confirmed] or determined to be implemented under any enactment, or]
- (b) the [^{F106}appropriate authority] has given a direction—

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- [^{F107}(i) under [^{F108}section 16 of the School Standards and Organisation (Wales) Act 2013] requiring a foundation [^{F109}or voluntary] school in Wales to be discontinued,
- ^{F110}(ii)
- (iii) under section 68(1) of the Education and Inspections Act 2006 requiring a foundation, voluntary or foundation special school in England to be discontinued, or
- (iv) under section 17(1) of that Act requiring a foundation special school in England to be discontinued.]

[^{F111}(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.]

- (2) The governing body of the school shall apply to the [^{F112}appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
 - (a) if the school is in England, any land falling within paragraphs (a) to (i) of paragraph A1(1) other than land falling within sub-paragraph (2A), or
 - (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 1(1),
 which is held by the body for the purposes of the school.]

[^{F113}(2A) Land falls within this sub-paragraph if it is—

- (a) land falling within paragraph (g) of paragraph A1(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
- (b) land falling within paragraph (i) of paragraph A1(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(2B) If the school is in England and the governing body dispose of any land falling within sub-paragraph (2A) which is held by them for the purposes of the school, paragraph A1 shall apply to them.]

- (3) Where the school is a member of the group for which a foundation body acts, the body shall apply to the [^{F114}appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
 - (a) if the school is in England, any land falling within paragraphs (a) to (h) of paragraph A7(1) other than land falling within sub-paragraph (3A), or
 - (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 2(1),
 which is held by the body for the purposes of the schools comprising the group.]

[^{F115}(3A) Land falls within this sub-paragraph if it is—

- (a) land falling within paragraph (f) of paragraph A7(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
- (b) land falling within paragraph (h) of paragraph A7(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(3B) If the school is in England and the foundation body disposes of any land falling within sub-paragraph (3A) which is held by it for the purposes of the schools comprising the group, paragraph A7 shall apply to it.]

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- (4) On an application under sub-paragraph (2) or (3), the [^{F116}appropriate authority] may do one or more of the following, namely—
- [^{F117}(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
 - [^{F118}(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);]
 - (b) direct the governing body or the foundation body, as the case may be, to pay, either to [^{F119}the appropriate authority] or to such local authority as [^{F119}the appropriate authority] 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 referred to in sub-paragraph (2) or (3), as the case may be; and
 - (c) in a case where the discontinuance of the school is connected with proposals under [^{F120}any enactment] to establish, or to make a prescribed alteration [^{F121}or regulated alteration] to, any other school or schools, require the land or any part of the land to be transferred to the governing body of such maintained school or the temporary governing body of such new school as [^{F122}the appropriate authority] may specify.
- [^{F123}(4ZA) Where the school is in England, the trustees of the school shall apply to the appropriate authority for it to exercise its powers under sub-paragraph (4B) in relation to any land falling within paragraph A13(1), (2) or (3), other than land falling within sub-paragraph (4ZB), which is held by the trustees for the purposes of the school.
- (4ZB) Land falls within this sub-paragraph if it is—
- (a) land falling within paragraph (j) of paragraph A13(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
 - (b) land falling within paragraph (k) of paragraph A13(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.]
- [^{F124}(4A) Where the school [^{F125}is in Wales and] is a foundation ^{F126}... school which has a foundation, the trustees of the school shall apply to the [^{F127}appropriate authority for it to exercise its] powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), [^{F128}(aa),] (b) or (c) which is held by the trustees for the purposes of the school.
- (4B) On an application under sub-paragraph [^{F129}(4ZA) or] (4A), the [^{F130}appropriate authority] may do one or more of the following, namely—
- [^{F131}(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
 - [^{F132}(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);]
 - (b) where the trustees have power to use the land [^{F133}—

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- (i) in the case of a school in England, for the purposes of another foundation, voluntary or foundation special school, or
 - (ii) in the case of a school in Wales, for the purposes of another foundation^{F134}... school or for the purposes of a voluntary school,
- direct the trustees to exercise that power in such manner as the appropriate authority may specify;]
- (c) direct the trustees to pay to such local authority as [^{F135}the appropriate authority] 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 referred to in sub-paragraph [^{F136}(4ZA) or, as the case may be,] (4A); and
 - (d) in a case where the discontinuance of the school is connected with proposals under any enactment to establish, or to make a prescribed alteration [^{F137}or regulated alteration] to, any other school or schools, require the land or any part of the land to be transferred—
 - (i) to the trustees, foundation body or governing body of such maintained school as [^{F138}the appropriate authority] may specify, or
 - (ii) to the trustees, foundation body or temporary governing body of such new school as [^{F138}the appropriate authority] may specify.]
- (5) Where the governing body [^{F139}, foundation body or trustees] fail to make an application as required by sub-paragraph [^{F140}(2), (3) [^{F141}, (4ZA)] or (4A)], as the case may be, the [^{F142}appropriate authority] may nevertheless make any such requirement or give any such direction as is mentioned in sub-paragraph [^{F143}(4) or (4B), as the case may be].
- [^{F144}(5A) Where the school is in England and the trustees of the school—
- (a) dispose of any land falling within sub-paragraph (4ZB), or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools [^{F145}or Academies],
- paragraph A13 shall apply to them.]
- (6) Where [^{F146}the school is in Wales and] the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2) [^{F147}but not within paragraph 2A(1)(a), [^{F148}(aa),] (b) or (c)], or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.
- [^{F149}(7) In this paragraph “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

Textual Amendments

F104 Sch. 22 para. 5(1)(a) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 118\(5\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

F105 Words in Sch. 22 para. 5(1)(a) inserted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\), art. 1\(1\), Sch. 1 para. 40](#) (with art. 7)

Changes to legislation: *School Standards and Framework Act 1998, SCHEDULE 22 is up to date with all changes known to be in force on or before 16 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*

- F106** Words in Sch. 22 para. 5(1)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(2)(a)**; S.I. 2007/935, art. 7(p)
- F107** Sch. 22 para. 5(1)(b)(i)-(iv) substituted for Sch. 22 para. 5(1)(b)(i)(ii) (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(2)(b)**; S.I. 2007/935, art. 7(p)
- F108** Words in Sch. 22 para. 5(1)(b)(i) substituted (W.) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 4(9)**; S.I. 2014/178, art. 2(f) (with art. 3)
- F109** Words in Sch. 22 para. 5(1)(b)(i) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(i)**; S.I. 2013/1800, art. 3(j)
- F110** Sch. 22 para. 5(1)(b)(ii) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(ii)**; S.I. 2013/1800, art. 3(j)
- F111** Sch. 22 para. 5(1A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 14(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F112** Words in Sch. 22 para. 5(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(3)**; S.I. 2007/935, art. 7(p)
- F113** Sch. 22 para. 5(2A)(2B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(4)**; S.I. 2007/935, art. 7(p)
- F114** Words in Sch. 22 para. 5(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(5)**; S.I. 2007/935, art. 7(p)
- F115** Sch. 22 para. 5(3A)(3B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(6)**; S.I. 2007/935, art. 7(p)
- F116** Words in Sch. 22 para. 5(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(a)**; S.I. 2007/935, art. 7(p)
- F117** Sch. 22 para. 5(4)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(b)**; S.I. 2007/935, art. 7(p)
- F118** Sch. 22 para. 5(4)(aa) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 14(3)**; S.I. 2012/84, art. 3 (with art. 5)
- F119** Words in Sch. 22 para. 5(4)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(c)**; S.I. 2007/935, art. 7(p)
- F120** Words in Sch. 22 para. 5(4)(c) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(5)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F121** Words in Sch. 22 para. 5(4)(c) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(iii)**; S.I. 2013/1800, art. 3(j)
- F122** Words in Sch. 22 para. 5(4)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(d)**; S.I. 2007/935, art. 7(p)
- F123** Sch. 22 para. 5(4ZA)(4ZB) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(8)**; S.I. 2007/935, art. 7(p)
- F124** Sch. 22 para. 5(4A)(4B) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(2)** (with s. 119)
- F125** Words in Sch. 22 para. 5(4A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(9)(a)**; S.I. 2007/935, art. 7(p)
- F126** Words in Sch. 22 para. 5(4A) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(iv)**; S.I. 2013/1800, art. 3(j)
- F127** Words in Sch. 22 para. 5(4A) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(9)(b)**; S.I. 2007/935, art. 7(p)
- F128** Word in Sch. 22 para. 5(4A) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(iv)**; S.I. 2013/1800, art. 3(j)
- F129** Words in Sch. 22 para. 5(4B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(a)**; S.I. 2007/935, art. 7(p)
- F130** Words in Sch. 22 para. 5(4B) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(b)**; S.I. 2007/935, art. 7(p)
- F131** Sch. 22 para. 5(4B)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(c)**; S.I. 2007/935, art. 7(p)

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- F132** Sch. 22 para. 5(4B)(aa) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 14(4)**; S.I. 2012/84, art. 3 (with art. 5)
- F133** Words in Sch. 22 para. 5(4B)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(d)**; S.I. 2007/935, art. 7(p)
- F134** Words in Sch. 22 para. 5(4B)(b)(ii) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(v)**; S.I. 2013/1800, art. 3(j)
- F135** Words in Sch. 22 para. 5(4B)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F136** Words in Sch. 22 para. 5(4B)(c) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(e)**; S.I. 2007/935, art. 7(p)
- F137** Words in Sch. 22 para. 5(4B)(d) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(vi)**; S.I. 2013/1800, art. 3(j)
- F138** Words in Sch. 22 para. 5(4B)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F139** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(a)** (with s. 119)
- F140** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(b)** (with s. 119)
- F141** Word in Sch. 22 para. 5(5) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(a)**; S.I. 2007/935, art. 7(p)
- F142** Words in Sch. 22 para. 5(5) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(b)**; S.I. 2007/935, art. 7(p)
- F143** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(c)** (with s. 119)
- F144** Sch. 22 para. 5(5A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(12)**; S.I. 2007/935, art. 7(p)
- F145** Words in Sch. 22 para. 5(5A)(b) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 14(5)**; S.I. 2012/84, art. 3 (with art. 5)
- F146** Words in Sch. 22 para. 5(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(13)**; S.I. 2007/935, art. 7(p)
- F147** Words in Sch. 22 para. 5(6)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(4)** (with s. 119)
- F148** Word in Sch. 22 para. 5(6)(a) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(f)(vii)**; S.I. 2013/1800, art. 3(j)
- F149** Sch. 22 para. 5(7) added (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(14)(f)**

*Discontinuance of foundation or voluntary school by
notice given by its governing body: land and premises*

- 6 (1) This paragraph applies where the governing body of a foundation or voluntary school apply for the [^{F150}appropriate authority's] consent to serve a notice under section 30(1) [^{F151}or section 80 of the School Standards and Organisation (Wales) Act 2013].
- (2) If the [^{F152}appropriate authority] gives such consent, [^{F153}the appropriate authority] may impose any requirements in relation to the governing body or, where the school is a member of the group for which a foundation body acts, the foundation body that [^{F153}the appropriate authority] thinks just—
- (a) in respect of the repayment of all or part of any expenditure incurred by [^{F154}the appropriate authority] as mentioned in section 30(2) [^{F155}or section 80(2) of the School Standards and Organisation (Wales) Act 2013];

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- (b) in respect of the transfer to the [F3local authority] of any premises used for the purposes of the school which [F153the appropriate authority] is satisfied [F156the [F3local authority]] will need for any purpose connected with education;
- (c) (where any premises are to be so transferred) in respect of the payment by [F156the [F3local authority]] of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
- (d) (where any premises used for the purposes of the school are not to be so transferred) in respect of the payment by the governing body or the foundation body, as the case may be, to [F156the [F3local authority]] of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.

(3) In sub-paragraph (2) “at public expense” means at the expense of—

- (a) the Funding Agency for Schools, or
- (b) any [F3local authority] or an authority within section 30(2)(d).

[F157(3A) Where the school is in England and the trustees of the school—

- (a) dispose of any land falling within paragraph A13(1), (2) or (3), or
- (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,

paragraph A13 shall apply to them.]

(4) Where [F158the school is in Wales and] the trustees of the school—

- (a) dispose of any land falling within paragraph 3(1) or (2), or
- (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,

paragraph 3 shall apply to them.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F150** Words in Sch. 22 para. 6(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(2)**; S.I. 2007/935, art. 7(p)
- F151** Words in Sch. 22 para. 6(1) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(g)(i)**; S.I. 2013/1800, art. 3(j)
- F152** Words in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(a)**; S.I. 2007/935, art. 7(p)
- F153** Word in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(b)**; S.I. 2007/935, art. 7(p)
- F154** Words in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(d)**; S.I. 2007/935, art. 7(p)
- F155** Words in Sch. 22 para. 6(2)(a) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(g)(ii)**; S.I. 2013/1800, art. 3(j)
- F156** Words in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(c)**; S.I. 2007/935, art. 7(p)
- F157** Sch. 22 para. 6(3A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(4)**; S.I. 2007/935, art. 7(p)

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F158 Words in Sch. 22 para. 6(4) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 10(5); S.I. 2007/935, art. 7(p)

Disposal of property held by governing body of maintained school on their dissolution

- 7 (1) This paragraph applies in connection with the dissolution of the governing body of a maintained school by virtue of [F159] paragraph 5 of Schedule 1 to the Education Act 2002 [F160] other than a dissolution by virtue of paragraph 5(2)(a)(iv) of that Schedule (dissolution following Academy order).
- (2) Where a governing body are so dissolved—
- (a) all land or other property of the governing body which is used or held for the purposes of the school, and
 - (b) all rights and liabilities (including rights and liabilities in relation to staff) of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school,
- shall on the date of dissolution be transferred to, and by virtue of this Act vest in—
- (i) the [F3] local authority], or
 - (ii) one or more of the [F161] persons or bodies mentioned in sub-paragraph (2A)], if the [F162] appropriate authority] so directs before the date of dissolution.
- [F163](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.]
- (3) Sub-paragraph (2) does not apply to—
- (a) any land or other property for which provision has been made for transfer or payment under paragraph 5(4) or 6(2),
 - (b) any property of whatever nature which is held by the governing body on trust for the purposes of the school, or
 - (c) unless the [F164] appropriate authority] otherwise directs by order made before the date of dissolution, any liabilities of the governing body in respect of any loan made to the governing body.
- (4) Subject to sub-paragraph (5), 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 maintained schools.
- (5) Sub-paragraph (4) does not apply to any land or other property so held by the governing body of a foundation, voluntary or foundation special school where any other persons also hold any property on trust for the purposes of the school; and any such land or other property shall on the date of dissolution be transferred to, and by virtue of this Act vest in, those persons.
- (6) If any doubt or dispute arises as to the persons to whom any land or other property within sub-paragraph (5) falls to be transferred under that sub-paragraph, it shall be

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treated as falling to be so transferred to such persons as the [F165 appropriate authority] thinks proper.

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F159** Words in Sch. 22 para. 7(1) substituted (1.10.2002 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(6)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2005/2910, art. 4, Sch.
- F160** Words in Sch. 22 para. 7(1) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 15(2)**; S.I. 2012/84, art. 3 (with art. 5)
- F161** Words in Sch. 22 para. 7(2)(ii) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 15(3)**; S.I. 2012/84, art. 3 (with art. 5)
- F162** Words in Sch. 22 para. 7(2)(ii) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 11**; S.I. 2007/935, art. 7(p)
- F163** Sch. 22 para. 7(2A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 15(4)**; S.I. 2012/84, art. 3 (with art. 5)
- F164** Words in Sch. 22 para. 7(3)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 11**; S.I. 2007/935, art. 7(p)
- F165** Words in Sch. 22 para. 7(6) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 11**; S.I. 2007/935, art. 7(p)

Notice by trustees terminating foundation or voluntary school’s occupation of existing site

- 8 (1) This paragraph applies where trustees have given a notice falling within section 30(10) [F166 or section 80(11) of the School Standards and Organisation (Wales) Act 2013] which is effective to terminate a foundation or voluntary school’s occupation of any land (“the relevant premises”).
- (2) If any expenditure has been incurred on the relevant premises as mentioned in section 30(2)(a) to (d) [F167 or section 80(2) of the School Standards and Organisation (Wales) Act 2013], the [F168 appropriate authority] may impose any requirements that [F169 the appropriate authority] thinks just—
- (a) in respect of the repayment by the trustees of all or part of any such expenditure which was incurred by [F170 the appropriate authority];
 - (b) in respect of the transfer by the trustees to the [F3 local authority] of the whole or part of the relevant premises where [F169 the appropriate authority] is satisfied [F171 the [F3 local authority]] will need them for any purpose connected with education;
 - (c) (to the extent that the relevant premises are to be so transferred) in respect of the payment by [F171 the [F3 local authority]] to the trustees of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
 - (d) (to the extent that the relevant premises are not to be so transferred) in respect of the payment by the trustees to [F171 the [F3 local authority]] of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.

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- (3) In sub-paragraph (2) “at public expense” means at the expense of—
- (a) the Funding Agency for Schools, or
 - (b) any ^[F3]local authority] or an authority within section 30(2)(d).

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F166** Words in Sch. 22 para. 8(1)(a) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(h)(i)**; S.I. 2013/1800, art. 3(j)
- F167** Words in Sch. 22 para. 8(2) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(h)(ii)**; S.I. 2013/1800, art. 3(j)
- F168** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 12(a)**; S.I. 2007/935, art. 7(p)
- F169** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 12(b)**; S.I. 2007/935, art. 7(p)
- F170** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 12(c)**; S.I. 2007/935, art. 7(p)
- F171** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 12(d)**; S.I. 2007/935, art. 7(p)

^[F172]PART 2A

MAINTAINED SCHOOL: TRANSFER OF LAND FROM TRUSTEE TO GOVERNING BODY

Textual Amendments

- F172** Sch. 22 Pt. 2A inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 13**; S.I. 2007/935, art. 7(p)

- 8A (1) This paragraph applies where the trustee of one or more foundation or foundation special schools to which section 23A (requirements as to foundations) applies is a body corporate.
- (2) Where—
- (a) the body corporate has under any enactment passed a resolution for its winding up,
 - (b) a court has made an order for the winding up of the body corporate,
 - (c) the body corporate has been ^[F173]removed under section 34 of the Charities Act 2011 from the register of charities kept under section 29 of that Act,] or
 - (d) prescribed conditions relating to the ability of the body corporate to pay its debts or to its continued existence as a body corporate or as a charity are met,
- the Secretary of State may make an order under this paragraph.
- (3) Conditions may be prescribed under sub-paragraph (2)(d) by reference to the opinion of the Secretary of State as to any prescribed matter.

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- (4) An order under this paragraph is an order directing that any land falling within paragraph A13(1)(b) or (2) held by the body corporate on trust for one or more foundation or foundation special schools to which section 23A applies is to be transferred to, and by virtue of the order vest in—
- (a) the governing body of the school, or
 - (b) where the land is held on trust for two or more schools, such of the governing bodies of the schools as the Secretary of State thinks proper.

- (5) In a case where—
- (a) proposals to establish a new foundation or foundation special school fall to be implemented under Schedule 2 to the Education and Inspections Act 2006, and
 - (b) the [^{F173}local authority] have before the school opening date transferred land to be held on trust for the school,

references in this paragraph to a foundation or foundation special school include references to a proposed such school, references to a governing body include references to a proposed governing body and for the purpose of sub-paragraph (1) section 23A is to be taken to apply to the proposed school if it would apply to the school when it is established.

- (6) In this paragraph—

^{F174}
...

“foundation” means a foundation established otherwise than under this Act.]

Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F173** Words in Sch. 22 para. 8A(2)(c) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 79** (with s. 20(2), Sch. 8)
- F174** Words in Sch. 22 para. 8A(6) omitted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by virtue of The Charities (Pre-consolidation Amendments) Order 2011 (S.I. 2011/1396), art. 1, **Sch. paras. 40(1)(2)(d)**

PART III

GENERAL

- 9 (1) Where a transfer under paragraph [^{F175}A5, A11, A17, A23,] 1(3)(a), 2(3)(a), 4(2), 5(4)(a) or (c), 6(2)(b) [^{F176}, 8(2)(b) or 8A] of this Schedule relates to registered land, it shall be the duty of the transferor—
- (a) to execute any such instrument under the [^{F177}Land Registration Act 2002],
 - (b) to deliver any such certificate under [^{F178}that Act], and
 - (c) to do such other things under [^{F178}that Act],
- as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.

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- (2) Paragraphs 6 to 8 of Schedule 10 to the ^{M12}Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers under paragraph 7 of this Schedule as they apply in relation to transfers to which that Schedule applies.

Textual Amendments

- F175** Words in Sch. 22 para. 9(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 14(a); S.I. 2007/935, art. 7(p)
- F176** Words in Sch. 22 para. 9(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 14(b); S.I. 2007/935, art. 7(p)
- F177** Words in Sch. 22 para. 9(1)(a) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), Sch. 11 para. 37(a) (with s. 129); S.I. 2003/1725, art. 2(1)
- F178** Words in Sch. 22 para. 9(1)(b)(c) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), Sch. 11 para. 37(b) (with s. 129); S.I. 2003/1725, art. 2(1)

Marginal Citations

- M12** 1988 c. 40.

- 10 (1) In this Schedule—
- (a) “the trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school;
 - (b) “disposal” includes—
 - (i) a compulsory disposal; and
 - (ii) in the case of any premises held under a tenancy to which Part II of the ^{M13}Landlord and Tenant Act 1954 (“the 1954 Act”) applies, the termination of that tenancy under that Part of that Act;
 - (c) references to “proceeds of disposal”, in relation to a disposal of land, are references to—
 - (i) any consideration for the disposal, including rent;
 - (ii) any compensation for the disposal, including any compensation paid by the landlord on the quitting of any premises within paragraph (b) (ii) by the governing body, foundation body or trustees (whether or not the compensation is required to be paid by section 37 of the 1954 Act (compensation where order for new tenancy precluded on certain grounds)); and
 - (iii) interest which has accrued in respect of any such consideration or compensation;
 - (d) “new school” has the meaning given by section 72(3).
 - ^{F179}(e) “the appropriate authority” means—
 - (i) in relation to a school in England, the Secretary of State, and
 - (ii) in relation to a school in Wales, the Assembly.]
 - ^{F180}(f) “regulated alteration” has the same meaning as in Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013.]
- (2) In paragraphs (b)(ii) and (c)(ii) of sub-paragraph (1) expressions to which a meaning is given for the purposes of the 1954 Act have the same meaning as in that Act.
- (3) In paragraphs [^{F181}A1(1), A13(1), (2) or (3)(a), A24 to A26,] 1(1), 3(1) and 4(3) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day—

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- (a) to any land being acquired in a particular way, or
- (b) to any grant being provided in a particular way,

are references to the land being acquired in that way by, or (as the case may be) to the grant being provided in that way to, the governing body or trustees of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the ^{M14}Education Act 1996.

- (4) In paragraphs [^{F182}A1(1), A13(1),] 1(1) and 3(1) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day, to any expenditure being incurred for the purposes of the school are references to such expenditure being incurred for the purposes of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the ^{M15}Education Act 1996.
- (5) In [^{F183}paragraphs A1(1) and 1(1)] references, in relation to the governing body of a foundation, voluntary or foundation special school, to any land being acquired in a particular way include references to the land being acquired in that way by the temporary governing body for the school.

Textual Amendments

- F179** Sch. 22 para. 10(1)(e) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 4 para. 15\(2\)](#); S.I. 2007/935, art. 7(p)
- F180** Sch. 22 para. 10(1)(f) inserted (W.) (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\), s. 100\(4\), Sch. 5 para. 19\(14\)\(i\)](#); S.I. 2013/1800, art. 3(j)
- F181** Words in Sch. 22 para. 10(3) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 4 para. 15\(3\)](#); S.I. 2007/935, art. 7(p)
- F182** Words in Sch. 22 para. 10(4) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 4 para. 15\(4\)](#); S.I. 2007/935, art. 7(p)
- F183** Words in Sch. 22 para. 10(5) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 4 para. 15\(5\)](#); S.I. 2007/935, art. 7(p)

Marginal Citations

- M13** 1954 c. 56.
M14 1996 c. 56.
M15 1996 c. 56.

[^{F184}PART IV

DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE [^{F3}LOCAL AUTHORITY]

Textual Amendments

- F184** Sch. 22 Pt. IV inserted (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\), art. 12 \(with art. 13\)](#)

- 11 (1) In this paragraph—

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- [^{F185}(a) subject to sub-paragraph (7), “capital expenditure” means expenditure of the governing body in question which falls to be capitalised in accordance with proper accounting practices;]
- (b) “commencement date” means the date on which [^{F186}the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002] comes into force;
- (c) “relevant body” means—
- (i) the governing body of a voluntary aided school; or
 - (ii) if the school has been discontinued and the governing body dissolved, the trustees;
- (d) “relevant land” means—
- (i) any caretaker’s dwelling; or
 - (ii) other buildings which are not school buildings;
- which form part of the premises of a voluntary aided school.
- (2) This paragraph applies to any disposal by the [^{F3}local authority] of relevant land enhanced in value wholly or partly by means of capital expenditure incurred by the governing body after the commencement date.
- (3) But this paragraph shall not apply unless the relevant body gives to the [^{F3}local authority] no later than 12 months after the expenditure is incurred a statement—
- (a) setting out the amount of expenditure; and
 - (b) stating that it is capital expenditure.
- (4) Where this paragraph applies, the [^{F3}local authority] shall notify the relevant body that the provision applies to them and they shall pay to the relevant body so much of the proceeds of disposal as may be determined to be just [^{F187}—
- (a) by agreement between the authority and the relevant body, or
 - (b) by the adjudicator where—
- (i) the authority or the relevant body refer the matter to him for determination, and
 - (ii) by the time of his determination, the matter has not been determined by agreement between the authority and the relevant body.]

[In determining whether to make a reference to the adjudicator under sub-^{F188}(4A) paragraph (4)(b), the authority or, as the case may be, the relevant body, must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(4B) Before making a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must give the other notice of their intention to make the reference.]

(5) In making the determination under sub-paragraph (4), the relevant body and the [^{F3}local authority], or the [^{F189}adjudicator], as the case may be, shall have regard in particular [^{F190}to any guidance given from time to time by the Secretary of State and] to any enhancement in value of the relevant land attributable to expenditure by or on behalf of the governing body.

[A determination made by the adjudicator on a reference made to him under sub-^{F191}(5A) paragraph (4)(b) may be varied or revoked by a further determination made by him if—

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- (a) the matter is referred to him by the [^{F3}local authority] or the relevant body, and
 - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (5B) In determining whether to make a reference to the adjudicator under sub-paragraph (5A)(a), the [^{F3}local authority] or the relevant body must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (5C) Sub-paragraph (5) applies in relation to the further determination of any matter by the adjudicator, by virtue of sub-paragraph (5A), as it applies in relation to the original determination of the matter.]
- (6) If the [^{F3}local authority] permit relevant land to be used for purposes not connected with the school—
- (a) they shall be treated for the purposes of this paragraph as having disposed of the land; and
 - (b) sub-paragraph (4) shall have effect as if the reference to proceeds of disposal were a reference to the value of the land.
- [The Secretary of State may—
- ^{F192}(7) (a) by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of any governing body or of any prescribed class or description of governing body;
- (b) by direction provide that expenditure of a particular governing body which is expenditure of a particular class or description is to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of that body.
- (8) Directions under sub-paragraph (7)(b) may be expressed to have effect in specified circumstances or subject to specified conditions.]]

Textual Amendments

- F185** Sch. 22 para. 11(1)(a) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(2\)](#); S.I. 2007/935, art. 7(p)
- F186** Words in Sch. 22 para. 11(1)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(3\)](#); S.I. 2007/935, art. 7(p)
- F187** Words in Sch. 22 para. 11(4) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(4\)](#); S.I. 2007/935, art. 7(p)
- F188** Sch. 22 para. 11(4A)(4B) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(5\)](#); S.I. 2007/935, art. 7(p)
- F189** Word in Sch. 22 para. 11(5) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(6\)\(a\)](#); S.I. 2007/935, art. 7(p)
- F190** Words in Sch. 22 para. 11(5) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(6\)\(b\)](#); S.I. 2007/935, art. 7(p)
- F191** Sch. 22 para. 11(5A)-(5C) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(7\)](#); S.I. 2007/935, art. 7(p)
- F192** Sch. 22 para. 11(7)(8) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(8\)](#); S.I. 2007/935, art. 7(p)

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- [^{F193}12(1) For the purposes of paragraph 11(1)(a), “proper accounting practices”, in relation to a governing body, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the governing body, or
 - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the [^{F3}local authority].
- (2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.]

Textual Amendments

F193 Sch. 22 para. 12 inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 17**; S.I. 2007/935, art. 7(p)

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 22 para. 1(1)(aa) words omitted by [2022 asc 1 Sch. 4 para. 11\(3\)\(a\)](#)
- Sch. 22 para. 2(1)(aa) words omitted by [2022 asc 1 Sch. 4 para. 11\(3\)\(b\)](#)
- Sch. 22 para. 2A(1)(aa) words omitted by [2022 asc 1 Sch. 4 para. 11\(3\)\(c\)](#)
- Sch. 22 para. 3(1)(aa) words omitted by [2022 asc 1 Sch. 4 para. 11\(3\)\(d\)](#)

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. 14(3)(aa) inserted by [2011 nawm 7 s. 16\(2\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- s. 18B inserted by [2011 nawm 7 s. 16\(3\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- Sch. 22 para. 5(1B) inserted by [2023 c. 55 s. 235\(4\)](#)