
Changes to legislation: Education Act 2002, Part 1 is up to date with all changes known to be in force on or before 11 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 7

ACADEMIES: SUPPLEMENTARY

PART 1

LAND

- 1 In the Education Act 1996 (c. 56), the following Schedule is inserted after Schedule 35—

“SCHEDULE
35A

ACADEMIES: LAND

Transfer schemes

- 1 (1) The Secretary of State may make a scheme in relation to land if these requirements are met—
- (a) a [^{F1}local authority] holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) at any time in the period of eight years ending with the day on which the scheme is made the land was used wholly or mainly for the purposes of a county school or community school;
 - (c) at the time the scheme is made the land is no longer used as mentioned in paragraph (b) or the Secretary of State thinks it is about to be no longer so used;
 - (d) before making the scheme the Secretary of State consulted the authority.
- (2) The Secretary of State may also make a scheme in relation to land if these requirements are met—
- (a) a [^{F1}local authority] holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) the land forms the whole or part of a site specified in a notice published under section 70 of the Education Act 2002 (new schools to meet increased demand for secondary education) as a possible site for a new school;
 - (c) before making the scheme, the Secretary of State consulted the authority.
- (3) These requirements must be met as regards a scheme under subparagraph (1) or (2)—

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- (a) the scheme must provide for a transfer of the authority's interest in the land or in such part of it as is specified in the scheme;
 - (b) the transfer must be to a person (the transferee) who is specified in the scheme and is concerned with the running of an Academy;
 - (c) the transfer must be made to the transferee for the purposes of the Academy;
 - (d) in the case of a scheme under sub-paragraph (2), the Academy must have been the subject of proposals published under section 70 of the Education Act 2002;
 - (e) the scheme must provide for the transfer to the transferee of any right or liability held by the authority as holder of the interest in the land or specified part concerned.
- (4) In sub-paragraph (3) the reference to a right or liability—
- (a) includes a reference to a right or liability as a trustee, but
 - (b) excludes a reference to a liability in respect of the principal of or interest on a loan.
- (5) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (6) A scheme must be so expressed that it does not come into force while the land concerned is used as mentioned in sub-paragraph (1)(b).
- (7) A scheme comes into force—
- (a) on the day it specifies for it to come into force, or
 - (b) on the day it otherwise identifies as the day for it to come into force.
- (8) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interests, rights and liabilities to which it applies.
- (9) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

Restriction on disposal

- 2 (1) Sub-paragraph (2) applies if—
- (a) a freehold or leasehold interest in land is held by a [^{F1}local authority],
 - (b) the authority proposes to make a disposal in respect of the interest, or to enter into a contract to make a disposal in respect of it, or to grant an option to make an acquisition in respect of it, and
 - (c) at any time in the period of eight years ending with the day on which the disposal, contract or option is proposed to be made, entered into or granted, the land was used wholly or mainly for the purposes of a county school or community school.
- (2) Unless the Secretary of State consents, the authority must not make the disposal or enter into the contract or grant the option.
- (3) Sub-paragraph (2) does not apply to a disposal made in pursuance of a contract made, or option granted, before the coming into force of this paragraph.

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- (4) Sub-paragraph (2) does not apply to—
 - (a) a disposal in favour of a person for the purposes of an Academy and for no consideration;
 - (b) a contract to make such a disposal;
 - (c) a grant of an option for a person to make an acquisition for the purposes of an Academy and for no consideration.
 - (5) A disposal or contract or grant is not invalid by reason only that it is made in contravention of sub-paragraph (2).
 - (6) A person acquiring an interest in land or entering into a contract to acquire it is not to be concerned to enquire whether consent required by sub-paragraph (2) has been given.
- 3
- (1) This paragraph applies if an authority makes a disposal or enters into a contract or grants an option in contravention of paragraph 2(2).
 - (2) In the case of a grant of an option, the Secretary of State may by notice served on the option holder repudiate the option at any time before it is exercised.
 - (3) In the case of a contract to make a disposal in respect of an interest, the Secretary of State may by notice served on the other party to the contract repudiate it at any time before a conveyance of the interest is executed.
 - (4) A repudiation under sub-paragraph (2) or (3) has effect—
 - (a) when the notice is served, and
 - (b) as if the repudiation were made by the authority.
 - (5) In the case of a disposal in respect of an interest (whether or not in pursuance of an option or contract falling within sub-paragraph (2) or (3)) the Secretary of State may purchase the interest concerned compulsorily.
 - (6) The Acquisition of Land Act 1981 (c. 67) is to apply in relation to the compulsory purchase of an interest under sub-paragraph (5).
 - (7) On completion of a compulsory purchase of an interest under sub-paragraph (5) the Secretary of State must transfer it to a person concerned with the running of an Academy.
 - (8) If the Secretary of State acquires an interest by compulsory purchase under sub-paragraph (5) he is entitled to recover from the authority an amount equal to the aggregate of—
 - (a) the compensation agreed or awarded in respect of the purchase,
 - (b) any interest payable by him in respect of the compensation, and
 - (c) the costs and expenses incurred by him in connection with the making of the compulsory purchase order.
 - (9) The authority must provide the Secretary of State with such information as he may require it to provide in connection with a compulsory purchase under sub-paragraph (5).
- 4
- (1) For the purposes of paragraphs 2 and 3—
 - (a) references to a disposal in respect of an interest are to a disposal of the whole interest or of a lesser interest;

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- (b) references to an acquisition in respect of an interest are to an acquisition of the whole interest or of a lesser interest.
- (2) If the disposal referred to in paragraph 3(3) or (5) is a disposal of a lesser interest, the reference there to the interest concerned is to the lesser interest.

Restriction on appropriation

- 5 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a [^{F1}local authority],
 - (b) the authority proposes to make an appropriation of the land under section 122 of the Local Government Act 1972 (c. 70), and
 - (c) at any time in the period of eight years ending with the day on which the appropriation is proposed to be made the land was used wholly or mainly for the purposes of a county school or community school.
- (2) Unless the Secretary of State consents, the authority must not make the appropriation.
- 6 (1) This paragraph applies if an authority makes an appropriation in contravention of paragraph 5(2).
- (2) The Secretary of State may purchase the interest concerned compulsorily.
- (3) Paragraph 3(6) to (9) apply to a compulsory purchase of an interest under sub-paragraph (2) above as they apply to a compulsory purchase of an interest under paragraph 3(5).

Duty to inform

- 7 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a [^{F1}local authority],
 - (b) the authority proposes to change the use of the land in such a way that (were the change made) the land would cease to be capable of use wholly or mainly for the purposes of a school, and
 - (c) at any time in the period of eight years ending with the date of the proposed change of use the land was used wholly or mainly for the purposes of a county school or community school.
- (2) The authority must inform the Secretary of State of the proposal.

Former Academies

- 8 (1) This paragraph applies if—
 - (a) a freehold or leasehold interest in land is transferred from a [^{F1}local authority] on or after 28th July 2000,
 - (b) the transfer is made to a person for the purposes of an Academy, and
 - (c) the first or the second condition set out below is satisfied.
- (2) The first condition is that—
 - (a) the school concerned ceases to be an Academy, and
 - (b) immediately before the school ceases to be an Academy the interest is held by a person for the purposes of the Academy.

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- (3) The second condition is that, although the school concerned continues to be an Academy, the interest ceases to be held for the purposes of the Academy.
- (4) This paragraph applies whether or not the transfer is made by virtue of a scheme under paragraph 1.
- (5) Sub-paragraph (2) applies whether or not, on the school ceasing to be an Academy, it simultaneously ceases to function as a school.
- (6) The Secretary of State may make a scheme providing for the transfer of the interest—
 - (a) from the person holding it;
 - (b) to the authority from which the transfer mentioned in sub-paragraph (1)(a) was made.
- (7) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (8) A scheme comes into force on the day it specifies for it to come into force.
- (9) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interest to which it applies.
- (10) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

Disapplication of rule against perpetuities

- 9 Where—
- (a) a freehold or leasehold interest in land is transferred for no consideration from a local authority to a person for the purposes of an Academy (whether or not by virtue of a scheme under paragraph 1), and
 - (b) at any time on or after the day on which this Schedule comes into force the authority is granted an option to make a re-acquisition of the interest (subject to whatever conditions),
- the rule against perpetuities does not apply to the option.

Other Acts

- 10 (1) Where a lease is granted by or transferred from a local authority to a person for the purposes of an Academy on or after the day on which this Schedule comes into force, section 153 of the Law of Property Act 1925 (c.20) (enlargement of leases granted for no rent etc) does not apply to permit that person to enlarge the term under the lease.
- (2) Section 123(2) of the Local Government Act 1972 (c. 70) (disposal for consideration less than the best reasonably obtainable) does not apply to a disposal to a person for the purposes of an Academy.
 - (3) Section 123(2A) of that Act (disposal of open space requires certain procedures) does not apply to a disposal which is made—
 - (a) to a person for the purposes of an Academy, and

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- (b) for no consideration.
- (4) Section 77(1) of the School Standards and Framework Act 1998 (c. 31) (restriction on disposal of playing fields) does not apply to a disposal which is made—
 - (a) by a local authority (within the meaning of that section) to a person for the purposes of an Academy, and
 - (b) for no consideration.

Regulations

- 11 Regulations under this Schedule may in particular include—
- (a) provision requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme under paragraph 1;
 - (b) provision requiring the appointed person to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1;
 - (c) provision requiring the authority concerned to provide the appointed person with such documents as he may require in order to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1;
 - (d) provision requiring an authority whose interest is (or is to be) transferred by virtue of a scheme under paragraph 1 to execute instruments and deliver certificates for the purposes of the enactments relating to registered land;
 - (e) provision treating such an authority as having given acknowledgement in writing of the right to production of documents;
 - (f) provision that consent under paragraph 2 is to be sought in a specified way;
 - (g) provision that information is to be given under paragraph 7 in a specified way.

Class consents

- 12 For the purposes of paragraphs 2(2) and 5(2), the consent of the Secretary of State—
- (a) may be given in relation to a particular case or class of case, and
 - (b) may be given subject to conditions.

Interpretation

- 13 A dwelling-house used by an authority for occupation by a person employed to work at a school is to be treated for the purposes of this Schedule as used for the purposes of the school.”

Textual Amendments

- F1** 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. 11(2)**

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1 by [S.I. 2004/571 Sch.](#)
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1A and 2 by [S.I. 2005/2570 art. 2](#)

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. 27(1A) inserted by [2010 c. 26 s. 4\(1\)](#)
- s. 29(2A)-(2D) inserted by [2009 c. 22 s. 260\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29B inserted by [2008 c. 25 s. 157](#)
- s. 8585A substituted for s. 85 by [2006 c. 40 s. 74\(1\)](#)
- s. 85A amendment to earlier affecting provision 2006 c. 40 s. 74(1) by [2011 c. 21 s. 31\(2\)](#)
- s. 85A(5) words substituted by [2009 c. 22 Sch. 12 para. 34](#)
- s. 86(1) s. 86 renumbered as s. 86(1) by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 86(2) inserted by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 88(2)-(7) inserted by [2006 c. 40 s. 74\(3\)](#)
- s. 88(7) repealed by [S.I. 2010/1080 Sch. 1 para. 45Sch. 2 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 88(2)-(7) by 2006 c. 40, s 74(3) was repealed without ever being brought into force.)
- s. 142(9)(b) words substituted by [S.I. 2010/1158 Sch. 2 para. 11\(10\)\(b\)](#)
- s. 210A inserted by [2008 c. 25 Sch. 1 para. 79](#)