



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER IV

GRANT-MAINTAINED SCHOOLS

Winding up and disposal of property

98 Capital expenditure: former voluntary schools

- (1) This section applies where a grant-maintained school conducted or formerly conducted by a governing body in liquidation was a voluntary school immediately before it became a grant-maintained school.
- (2) Subsection (3) below applies where in any such case—
 - (a) an order is made by virtue of section 95(4) of this Act vesting the premises of the school in a local education authority for the purposes of a new county school; or
 - (b) no such order has been made and no proposals have been approved under section 13 of the 1980 Act that a school proposed to be established on the school premises should be maintained by a local education authority as a voluntary school;provided that, where paragraph (b) above applies, the Secretary of State is satisfied that no proposals for the establishment on those premises of a new county school are likely to be published, and no such proposals under section 13 are likely to be published or approved, before the date he proposes to appoint as the dissolution date.
- (3) Where this subsection applies, an order under section 94 of this Act shall determine—

Status: This is the original version (as it was originally enacted).

- (a) the amount of any expenditure incurred by the Secretary of State in paying capital grant to the governing body of the school (“W”);
- (b) the amount of any expenditure incurred by him, otherwise than in connection with repairs, in respect of any premises used for the purposes of the school before it became a grant-maintained school (“W”); and
- (c) an amount representing the appropriate share in the value of the school premises of the former maintaining authority (“W”).

For the purposes of paragraph (c) above the appropriate share of a local education authority in the value of any school premises is such part of the value of those premises as the Secretary of State determines to be appropriate having regard to the extent to which those premises were provided at the expense of the local education authority concerned or a former authority.

- (4) Subject to subsection (7) below, in a case within subsection (2)(a) above, an order under section 94 of this Act may—

- (a) require an amount equal to the whole or any part of—
 - (i) the capital grant amount; and
 - (ii) the prior expenditure amount;

to be deducted from the consideration otherwise payable by virtue of section 95 of this Act to the persons from whom the premises are transferred and paid by the local education authority concerned to the Secretary of State; and

- (b) either—
 - (i) where the local education authority concerned are the former maintaining authority, provide for the consideration otherwise so payable to be reduced by an amount equal to the locally funded amount; or
 - (ii) in any other case, require an amount equal to the locally funded amount to be deducted from that consideration and paid by the local education authority concerned to the former maintaining authority.

- (5) Subject to subsection (7) below, in a case within subsection (2)(b) above, an order under section 94 of this Act may require any persons in whom the school premises are vested—

- (a) to pay to the Secretary of State an amount equal to the whole or any part of—
 - (i) the capital grant amount; and
 - (ii) the prior expenditure amount; and
- (b) to pay to the former maintaining authority an amount equal to the locally funded amount.

- (6) Subject to subsection (7) below, where in a case within subsection (2)(b) above—

- (a) no requirement has been imposed by virtue of subsection (5) above; and
- (b) any person acquires the school premises or any part of them (whether compulsorily or otherwise) from the persons in whom they were vested immediately before an order was made under section 94 of this Act (or, where more than one such order has been made, before the first of them) or their successors;

the Secretary of State may impose on the persons from whom the school premises were acquired any requirement that could have been imposed by virtue of subsection (5) above.

Status: This is the original version (as it was originally enacted).

- (7) No provision may be made in an order under section 94 of this Act by virtue of subsection (4) or (5) above, and no requirement may be imposed by virtue of subsection (6) above, in any case where—
- (a) that section applies in relation to the school in question by virtue of the fact that the Secretary of State has given notice to the governing body of the school specifying a date on which he intends to cease to maintain the school; and
 - (b) the notice was given in accordance with section 93(2) of this Act.
- (8) Where in any case to which this section applies a school is established in pursuance of any proposals under section 13 of the 1980 Act on the premises of the grant-maintained school, any capital expenditure incurred by the Secretary of State in relation to the grant-maintained school shall for the purposes of section 14 of the 1944 Act (restrictions on discontinuance of voluntary schools) be treated (if it would not otherwise be so) as expenditure so incurred (otherwise than in connection with repairs) in respect of the premises of the new school.
- (9) In subsection (8) above “capital expenditure” means any such expenditure as is mentioned in subsection (3)(a) or (b) above.