



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART III

#### EDUCATION IN INNER LONDON

##### *Control of ILEA's contracts and disposals*

#### **188 Control of contracts**

- (1) This section applies to any contract in respect of which the consideration exceeds £15,000 and which is entered into after 22nd July 1987.
- (2) Except with the consent of the Secretary of State, ILEA shall not after the passing of this Act enter into a contract to which this section applies.
- (3) Subject to section 191(3)(b) of this Act, if at any time after 22nd July 1987 and before the passing of this Act ILEA has entered into a contract which would have been in contravention of the provisions of subsection (2) above if they had then been in force, the same consequences shall follow as if those provisions had been contravened by ILEA.
- (4) Any consent for the purposes of this section may be given either in respect of a particular contract or in respect of contracts of any class or description and either unconditionally or subject to conditions.
- (5) Any signification of consent, or of consent subject to specified conditions, given by the Secretary of State before the passing of this Act in respect of any contract to which this section applies shall be treated for the purposes of this section as a consent, or a consent subject to those conditions, given under this section.
- (6) A contract shall not be void by reason only that it has been entered into in contravention of this section and (subject to section 190(2) of this Act) a person entering into a contract with ILEA shall not be concerned to enquire whether any consent required by this section has been given or complied with.

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- (7) Where the consideration or any of the consideration under a contract is not in money, the limit specified in subsection (1) above shall apply to the value of the consideration.
- (8) This section does not apply to—
  - (a) a contract to dispose of land or to grant or dispose of any interest in land; or
  - (b) a contract of employment between ILEA and a person employed by it.

### **189 Control of disposals**

- (1) Subject to subsection (9) below, this section applies to any disposal of land which is made after 22nd July 1987.
- (2) Except with the consent of the Secretary of State, ILEA shall not after the passing of this Act make a disposal to which this section applies.
- (3) Subject to section 191(3)(b) of this Act, if at any time after 22nd July 1987 and before the passing of this Act ILEA has made a disposal which would have been in contravention of the provisions of subsection (2) above if they had then been in force, the same consequences shall follow as if those provisions had been contravened by ILEA.
- (4) Any consent for the purposes of this section may be given either in respect of a particular disposal or in respect of disposals of any class or description and either unconditionally or subject to conditions.
- (5) Any signification of consent, or of consent subject to specified conditions, given by the Secretary of State before the passing of this Act in respect of any disposal to which this section applies shall be treated for the purposes of this section as a consent, or a consent subject to those conditions, given under this section.
- (6) This section has effect notwithstanding anything in section 123 of the Local Government Act 1972 (general power to dispose of land) or in any other enactment; and the consent required by this section shall be in addition to any consent required by subsection (2) of that section or by any other enactment.
- (7) A disposal shall not be invalid or, in the case of a disposal which consists of a contract, void by reason only that it has been made or entered into in contravention of this section; and (subject to the provisions of section 190 of this Act) a person acquiring land, or entering into a contract to acquire land, from ILEA shall not be concerned to enquire whether any consent required by this section has been given or complied with.
- (8) In this section references to disposing of land include references to—
  - (a) granting or disposing of any interest in land;
  - (b) entering into a contract to dispose of land or to grant or dispose of any such interest; and
  - (c) granting an option to acquire any land or any such interest.
- (9) This section does not apply to a disposal falling within subsection (8)(a) above if it is made in pursuance of a contract entered into, or an option granted, on or before 22nd July 1987.

### **190 Wrongful contracts or disposals**

- (1) This section applies where ILEA—

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- (a) has entered into any contract to which section 188 of this Act applies; or
  - (b) has made any disposal to which section 189 of this Act applies;in contravention of that section (referred to below in this section as a wrongful contract or, as the case may be, a wrongful disposal).
- (2) In the case of a wrongful contract or a wrongful disposal which consists in entering into a contract to dispose of any land or to grant or dispose of any interest in land, the aggrieved body may by notice in writing served on the other party to the contract repudiate the contract—
  - (a) in the case of a wrongful contract, at any time before the contract is performed;
  - (b) in the case of a wrongful disposal, at any time before the conveyance or grant of the land or interest in land to which it relates is completed or executed.
- (3) In the case of a wrongful disposal which consists in granting an option to acquire any land or interest in land, the aggrieved body may by notice in writing served on the option holder repudiate the option at any time before it is exercised.
- (4) A repudiation under subsection (2) or (3) above shall have effect as if made by ILEA.
- (5) In the case of a wrongful disposal which consists in granting or disposing of any interest in land (whether or not in pursuance of any earlier disposal of a description falling within subsection (2) or (3) above)—
  - (a) the aggrieved body may be authorised by the Secretary of State to purchase compulsorily the interest in land which was the subject of the disposal; and
  - (b) whether or not the aggrieved body is so authorised, any sums which, apart from this provision, would fall to be included by reference to that disposal in ILEA's capital receipts for the purposes of Part VIII of the Local Government, Planning and Land Act 1980 shall not be so included.
- (6) The Acquisition of Land Act 1981 shall apply in relation to the compulsory purchase of land under subsection (5) above by an aggrieved body (other than the London Residuary Body) as if references in sections 12 and 13 of that Act to every owner of the land included references to the London Residuary Body.
- (7) Where an aggrieved body (other than the London Residuary Body) acquires any interest in land by a compulsory purchase under subsection (5) above, the body shall be entitled to recover from the London Residuary Body an amount equal to the aggregate of—
  - (a) the amount of compensation agreed or awarded in respect of that purchase, together with any interest payable by the council in respect of that compensation in accordance with section 11 of the Compulsory Purchase Act 1965; and
  - (b) the amount of the costs and expenses incurred by the body in connection with the making of the compulsory purchase order.
- (8) A body is an aggrieved body for the purposes of this section—
  - (a) in relation to a wrongful contract, if rights or liabilities under the contract have been transferred to, or have vested in, the body by or under this Part;
  - (b) in relation to a wrongful disposal of a description falling within subsection (2) or (3) above, if the land proposed to be disposed of, or in which an interest is proposed to be granted, has been so transferred or has so vested;
  - (c) in relation to a disposal of a description falling within subsection (5) above, if (but for the disposal)—

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- (i) the interest disposed of would have been so transferred or would have so vested; or
- (ii) where the disposal consists in the granting of an interest in land, the land in which the interest was granted would have been so transferred, or would have so vested, free of the interest.

## **191 Penalties for contravention of section 188 or 189**

- (1) If, on an application under this section, it appears to the High Court that ILEA has entered into a contract in contravention of section 188 of this Act or has made a disposal in contravention of section 189 of this Act, the court may order any person responsible for authorising the contract or disposal who is, or was at the time of the conduct in question, a member of ILEA—
  - (a) to be disqualified for being a member of ILEA; and
  - (b) to be disqualified for a specified period for being a member of any local authority.
- (2) Where the court has power to make an order under subsection (1) above in respect of any person, it may also order him to pay to ILEA or, in the case of an order made on or after the abolition date, to the London Residuary Body a sum not exceeding—
  - (a) in the case of a contract in contravention of section 188, an amount equal to the amount or value of the consideration under the contract;
  - (b) in the case of a disposal in contravention of section 189, an amount equal to the amount or value of the consideration for the disposal or, if there is no consideration or it is less than the market value of what was disposed of, an amount equal to that market value.
- (3) No order shall be made under this section in respect of any person—
  - (a) if the court is satisfied that he acted in the belief that the contract or disposal had the consent of the Secretary of State and that any conditions attached to the consent had been complied with; or
  - (b) where the contract was entered into, or the disposal was made, on or before 17th February 1988.
- (4) An application under this section may be made by any of the following—
  - (a) an inner London council;
  - (b) a local government elector for the area of such a council;
  - (c) the London Residuary Body; and
  - (d) any local authority other than an inner London council to which property, rights or liabilities of ILEA will be or have been transferred by order under section 168 of this Act.
- (5) In sections 80(1)(e), 86(b) and 87(1)(d) of the Local Government Act 1972 references to Part III of the Local Government Finance Act 1982 shall include references to this section.