

## SCHEDULES

### SCHEDULE 29

#### AMENDMENTS RELATING TO FUNCTIONS OF EDUCATION TRANSFER COUNCIL

##### *General provisions as to transfers*

- 2 (1) Section 198 of the 1988 Act (transfers under Parts I and II of that Act) shall be amended as follows.
- (2) For subsections (1) to (4) substitute—
- “(1) This section applies to any transfer under any of the following provisions, namely—
- (a) section 126 or 130 of this Act,
  - (b) Schedule 21 to the School Standards and Framework Act 1998 (“the 1998 Act”), or
  - (c) any regulations made—
    - (i) under section 21(5) or (9) of that Act, or
    - (ii) under paragraph 10 of Schedule 2 or paragraph 5 of Schedule 8 to that Act;
- and those provisions, so far as relating to transfers under them, shall in each case have effect subject to Schedule 10 to this Act.
- (1A) However, nothing in—
- (a) the provisions of that Schedule other than paragraph 2(4), or
  - (b) subsection (3) below,
- applies in relation to any transfer agreement falling to be made under paragraph 4 or 7 of Schedule 21 to the 1998 Act or any corresponding provision of regulations under that Act.
- (2) Schedule 10 to this Act has effect for the purpose of—
- (a) dividing and apportioning property, rights and liabilities which fall to be transferred under any transfer to which this section applies by a transferor authority or body where that property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one school or other educational institution;
  - (b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer;
  - (c) providing for identifying and defining the property, rights and liabilities which fall to be transferred under a transfer to which this section applies; and
  - (d) making supplementary and consequential provisions in relation to such transfers.

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*Status: This is the original version (as it was originally enacted).*

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- (3) In carrying out the functions conferred or imposed on them by that Schedule—
- (a) the Education Transfer Council—
    - (i) shall, subject to subsection (4) below, not act on behalf of the transferor, the transferee or any other interested person, but
    - (ii) shall seek to ensure that all such persons' interests are protected; and
  - (b) it shall be the duty of the Council, so far as it is reasonably practicable for them to do so, to secure that each transfer to which this section applies is, so far as possible, fully effective on the date on which it takes effect under this Act or under or by virtue of the 1998 Act.
- (4) Where the transferor under any such transfer is a local authority and in accordance with that Schedule anything falls to be or may be done by the Council for the purposes of or in connection with that transfer—
- (a) it may not be done by the transferee; and
  - (b) in doing it the Council shall be regarded as acting on behalf and in the name of the transferee;
- and in a case where the transferee is a body corporate established under this Act or the 1998 Act paragraph (b) above applies both in relation to things done before and in relation to things done after that body is established under this Act or the 1998 Act.”
- (3) For “the Board”, wherever occurring in subsections (5) and (6) of section 198, there is substituted (in accordance with section 136(2) of this Act) “the Council”.