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**Changes to legislation:** Education and Inspections Act 2006, Paragraph 16 is up to date with all changes known to be in force on or before 19 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

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## SCHEDULES

### SCHEDULE 4

#### DISPOSALS AND CHANGES OF USE OF LAND

##### PART 1

###### AMENDMENTS TO SCHEDULE 22 TO SSFA 1998

- 16 (1) Paragraph 11 is amended as follows.
- (2) For paragraph (a) of sub-paragraph (1) substitute—
- “(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;”.
- (3) In paragraph (b) of that sub-paragraph for “that Order” substitute “ the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002 ”.
- (4) In sub-paragraph (4) for the words from “, either by agreement” to the end substitute “—
- (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.”
- (5) After sub-paragraph (4) insert—
- “(4A) In determining whether to make a reference to the adjudicator under sub-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.”
- (6) In sub-paragraph (5)—
- (a) for “Secretary of State” substitute “ adjudicator ”, and
- (b) after “particular” insert “ to any guidance given from time to time by the Secretary of State and ”.
- (7) After sub-paragraph (5) insert—

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- “(5A) A determination made by the adjudicator on a reference made to him under sub-paragraph (4)(b) may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by the local education 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 local education 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.”

(8) After sub-paragraph (6) insert—

- “(7) The Secretary of State may—
- (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.”

**Commencement Information**

**II** Sch. 4 para. 16 in force at 25.5.2007 by S.I. 2007/935, art. 7(p)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2006/2990 art. 4 by [S.I. 2008/54 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2007/935 art. 7(n) by [S.I. 2007/1271 art. 4](#)
- specified provision(s) transitional provisions for earlier commencing SI 2007/935 by [S.I. 2007/1271 art. 5](#)

**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. 11A inserted by [2010 c. 26 s. 7](#)
- s. 88(A1) inserted by [2015 c. 20 Sch. 16 para. 1\(2\)](#)
- s. 93A inserted by [2009 c. 22 s. 246](#)
- s. 93A(7) words inserted by [S.I. 2016/413 reg. 235](#) (This amendment comes into force on the day that section 93A of the Education and Inspections Act 2006 (c. 40) comes into force. That provision is still prospective)
- s. 162(5A)(aa) inserted by [2010 nawm 1 Sch. 1 para. 20\(a\)](#)