

SCHEDULES

SCHEDULE 1

Section 13

ACADEMIES: LAND

Transfer scheme where land ceases to be used for maintained school

- 1 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met.
- (2) The requirements are as follows—
- (a) a local authority holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) at any time in the period of 8 years ending with the day on which the scheme is made the land was used wholly or mainly for the purposes of a maintained 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.
- (3) The scheme must meet the requirements in paragraph 3(1).

Transfer scheme following proposals for establishment of new school

- 2 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met.
- (2) The requirements are as follows—
- (a) a 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 7 of EIA 2006 (invitation for proposals for establishment of new schools) as a possible site for a new school;
 - (c) before making the scheme, the Secretary of State consulted the authority.
- (3) The scheme must meet the requirements in paragraph 3(1).

Transfer schemes under paragraphs 1 and 2: general

- 3 (1) These requirements must be met as regards a scheme under paragraph 1 or 2—
- (a) the scheme must provide for a transfer of the land or such part of it as is specified in the scheme;
 - (b) the scheme must specify whether the transfer is the transfer of a freehold or leasehold interest in the land or the grant of a lease in respect of the land (see paragraph 12(4));
 - (c) the transfer must be to a person who is specified in the scheme and is concerned with the running of an Academy;

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- (d) the transfer must be made to the transferee for the purposes of the Academy;
 - (e) in the case of a scheme under paragraph 2, the Academy must have been the subject of proposals published under section 7 of EIA 2006;
 - (f) the scheme must make provision about the transfer to the transferee of any right or liability held by the local authority as holder of the land or specified part concerned.
- (2) In sub-paragraph (1) 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.
- (3) A scheme may include incidental, consequential, supplemental and transitional provision.
- (4) A scheme under paragraph 1 must be so expressed that it does not come into force while the land concerned is used for the purposes of a maintained school.
- (5) 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.
- (6) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the land, rights and liabilities to which it applies.
- (7) A transfer made by virtue of a scheme is binding on all persons even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

Transfer direction where Academy order made: land held by governing body, foundation body or trustees

- 4 (1) This paragraph applies where an Academy order is made in respect of—
- (a) a voluntary school,
 - (b) a foundation school, or
 - (c) a foundation special school.
- (2) The Secretary of State may make one or more of the directions listed in sub-paragraph (3) in respect of publicly funded land which is held for the purposes of the school by—
- (a) the governing body of the school,
 - (b) the foundation body of the school, or
 - (c) the trustees of the school.
- (3) The directions are—
- (a) that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (b) that the governing body, the foundation body or the trustees, as the case may be, pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land;

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- (c) that the land or any part of the land be transferred to a person concerned with the running of the Academy.
- (4) Unless otherwise specified in the direction, any transfer of land pursuant to sub-paragraph (3) is to take place on the conversion date.
- (5) Land transferred to a local authority pursuant to a direction under this paragraph may be the subject of a transfer scheme under paragraph 1.

Transfer of land on dissolution of governing body

- 5 (1) This paragraph applies where—
- (a) a governing body of a school are to be dissolved by virtue of paragraph 5(2)(a)(iv) of Schedule 1 to EA 2002 (dissolution of governing body on conversion date following Academy order),
 - (b) on the conversion date, the governing body hold publicly funded land for the purposes of the school, and
 - (c) the land is not transferred on the conversion date (pursuant to a direction under paragraph 4 or otherwise).
- (2) Where a governing body are so dissolved—
- (a) all publicly funded land which is held by the governing body for the purposes of the school, and
 - (b) all rights and liabilities of the governing body in relation to the land, are transferred as provided in sub-paragraph (3).
- (3) The land, rights and liabilities are, on the conversion date, transferred to, and by virtue of this Act vest in—
- (a) the local authority that maintained the school, or
 - (b) such person concerned with the running of an Academy as the Secretary of State directs before the conversion date.
- (4) Sub-paragraph (2) does not apply to—
- (a) any land for which provision has been made for payment under paragraph 4(3)(b),
 - (b) any land which is held by the governing body on trust for the purposes of the school, or
 - (c) unless the Secretary of State otherwise directs before the conversion date, any liabilities of the governing body in respect of a loan made to the governing body.
- (5) Subject to sub-paragraphs (6) and (7), a governing body who are to be dissolved as mentioned in sub-paragraph (1) may transfer any land which is held by them on trust for the purposes of the school to any person to hold such land on trust for purposes connected with the provision of education in schools.
- (6) Sub-paragraph (5) does not apply to land in respect of which a direction has been made under paragraph 4(3)(a) or (c).
- (7) Sub-paragraph (5) does not apply to land held by a governing body on trust for the purposes of the school in a case where any other persons (“other trustees”) also hold land on trust for the purposes of the school.

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- (8) In a case mentioned in sub-paragraph (7), the land held on trust by the governing body is, on the conversion date, transferred to, and by virtue of this Act vests in, the other trustees.
- (9) If any doubt or dispute arises as to the persons to whom land is transferred under sub-paragraph (8), it is to be treated as so transferred to such persons as the Secretary of State directs.

Former Academies: transfer scheme for land acquired from local authority

- 6 (1) This paragraph applies if—
 - (a) there is a transfer of land from a local authority on or after 28 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 land is held by a person for the purposes of the Academy.
- (3) The second condition is that, although the school concerned continues to be an Academy, the land 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 or 2.
- (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 land, or such part of it as is specified in the scheme—
 - (a) from the person holding it;
 - (b) back to the authority from which the transfer mentioned in sub-paragraph (1) (a) was made.
- (7) The scheme must make provision about the transfer to the authority of any right or liability held by the transferor as holder of the land or specified part concerned.
- (8) In sub-paragraph (7) 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.
- (9) A scheme may include incidental, consequential, supplemental and transitional provision.
- (10) 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.
- (11) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the land, rights and liabilities to which it applies.

- (12) A transfer made by virtue of a scheme is binding on all persons even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

Former Academies: transfer directions

- 7 (1) This paragraph applies if—
- (a) publicly funded land is transferred on or after 28 July 2000 from—
 - (i) a governing body of a school,
 - (ii) a foundation body of a school, or
 - (iii) the trustees of a school,
 - (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) This paragraph also applies if—
- (a) publicly funded land has been held for the purposes of a maintained school by the trustees of the school,
 - (b) the land is held by the trustees for the purposes of an Academy, and
 - (c) the first or the second condition set out below is satisfied.
- (3) 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 land is held by a person for the purposes of the Academy.
- (4) The second condition is that, although the school concerned continues to be an Academy, the land ceases to be held for the purposes of the Academy.
- (5) Sub-paragraph (3) 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 one or more of the following directions—
- (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (b) in a case where this paragraph applies by virtue of sub-paragraph (1), a direction that the land or any part of the land be transferred back to the person from whom the transfer mentioned in sub-paragraph (1)(a) was made, subject to the payment of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (c) a direction that the person holding the land pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land.

Transfer directions: general

- 8 Where a transfer pursuant to a direction under paragraph 4 or 7 relates to registered land, it is the duty of the transferor—
- (a) to execute any such instrument under the Land Registration Act 2002,
 - (b) to deliver any such certificate under that Act, and

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(c) to do such other things under that Act,
as the transferor would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.

Disapplication of rule against perpetuities

- 9 (1) Where—
- (a) land is transferred for no consideration for the purposes of an Academy (whether or not by virtue of a scheme under paragraph 1 or 2 or pursuant to a direction under paragraph 4), and
 - (b) the person who transferred the land is granted an option to make a re-acquisition of the land (subject to whatever conditions),
- the rule against perpetuities does not apply to the option.
- (2) Sub-paragraph (1) does not apply to an option granted before 26 July 2002.

Disapplication of other Acts

- 10 (1) Where a lease is granted or transferred to a person for the purposes of an Academy on or after 26 July 2002, section 153 of the Law of Property Act 1925 (enlargement of leases granted for no rent etc) does not apply to permit that person to enlarge the term under the lease.
- (2) The following provisions do not apply to a transfer of land by virtue of this Schedule—
- (a) subsections (2) and (2A) of section 123 of the Local Government Act 1972 (disposals of land by principal councils);
 - (b) section 77(1) of SSFA 1998 (restrictions on disposal of school playing fields);
 - (c) Schedule 22 to that Act (disposals of school land on discontinuance etc).

Regulations

- 11 (1) The Secretary of State may make regulations containing such incidental, consequential, supplemental and transitional provisions as the Secretary of State thinks are appropriate in consequence of this Schedule or for giving it full effect.
- (2) Regulations under sub-paragraph (1) may in particular include provision—
- (a) requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme under paragraph 1, 2 or 6;
 - (b) requiring the appointed person to identify the land, rights and liabilities to be transferred by or under a scheme under paragraph 1, 2 or 6;
 - (c) requiring a transferor under a scheme under paragraph 1, 2 or 6 to provide the appointed person with such documents as may be required in order to identify the land, rights and liabilities to be transferred by or under the scheme;
 - (d) requiring a transferor under a scheme under paragraph 1, 2 or 6 to execute such instruments, deliver such certificates and do any other such things as are required by the Land Registration Act 2002 in order to transfer the land;
 - (e) treating a transferor under a scheme under paragraph 1, 2 or 6 as having given acknowledgement in writing of the rights to production of documents;

- (f) about the production of documents, execution of instruments, delivery of certificates and any other related matters in connection with a transfer under paragraph 5.

Interpretation

- 12 (1) A dwelling-house used 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.
- (2) In this Schedule—
- (a) the “foundation body”, in relation to a school, has the same meaning as in SSFA 1998 (see section 21(4) of that Act);
 - (b) the “trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school.
- (3) In this Schedule, “publicly funded land” means—
- (a) in relation to land held by a governing body, land falling within any of paragraphs (a) to (i) of paragraph A1(1) of Schedule 22 to SSFA 1998 (disposals of school land on discontinuance etc);
 - (b) in relation to land held by a foundation body, land falling within any of paragraphs (a) to (h) of paragraph A7(1) of that Schedule;
 - (c) in relation to land held by trustees, land falling within paragraph (1), (2) or (3) of paragraph A13 of that Schedule.
- (4) References in this Schedule to a transfer of land are to the transfer of a freehold or leasehold interest in the land or to the grant of a lease in respect of the land; and references to a transfer back of land are to the transfer of a freehold or leasehold interest in the land or to the surrender of a lease in respect of the land.
- (5) References in this Schedule to a lease include references to a sub-lease.