

## SCHEDULE 4

### Transfer of land

#### Part V

##### **Land excluded from transfer and restrictions on disposal of land when proposals are pending**

**19.**—(1) Nothing in Part II of this Schedule has the effect of transferring to, or vesting in, any body—

- (a) any land, rights or liabilities excluded under sub-paragraph (2) or (3),
- (b) any rights or liabilities under a contract of employment,
- (c) any liability of a local authority, governing body or trustees in respect of the principal of, or any interest on, any loan, or
- (d) any liability in tort.

(2) If before the implementation date in relation to any change of category—

- (a) the prospective transferee and transferor have agreed in writing that any land should be excluded from the operation of Part II of this Schedule, and
- (b) the National Assembly has given its written approval of the agreement,

the land (and any rights or liabilities relating to it) shall be so excluded.

(3) If in default of agreement under sub - paragraph (2)—

- (a) the prospective transferee or transferor have applied to the National Assembly to exclude any land from the operation of Part II of this Schedule, and
- (b) the National Assembly has by order directed its exclusion,

the land (and any rights or liabilities relating to it) shall be excluded.

(4) An agreement under sub - paragraph (2) may provide for the land to be used or held for the purposes of the school (as a school of a new category) on such terms as may be specified in or determined in accordance with the agreement; and directions under sub- paragraph (3)—

- (a) may confer any rights or impose any liabilities that could have been conferred or imposed by such an agreement, and
- (b) shall have effect as if contained in such an agreement.

(5) In this paragraph—

“new category” means one of the categories set out in section 20(1) of the Act;

“the prospective transferee”, in relation to any land, means the body to whom, apart from sub - paragraph (2) or (3), the land would fall to be transferred under Part II of this Schedule; and

“the prospective transferor” shall be construed accordingly.

**20.**—(1) For the purposes of Part V of this Schedule the procedure for becoming a school of another category is pending in relation to a school when it has been initiated by the governing body in relation to the school on any occasion and not terminated (as initiated on that occasion).

(2) For those purposes, that procedure is to be regarded as initiated in relation to a school on any occasion on receipt by the local education authority of notice of a meeting of the governing body at which a motion for a resolution to consult about proposals to change category is to be considered .

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(3) For those purposes, that procedure, as initiated on any occasion, is to be regarded as terminated—

- (a) if the meeting is not held;
- (b) if the meeting is held but the motion is not moved or; though the motion is moved, the resolution is not passed;
- (c) if consultation is not initiated in accordance with section 28(5) of the Act as modified by these Regulations;
- (d) if the proposals in respect of which consultation was initiated are not published;
- (e) if the said proposals are rejected by the National Assembly or withdrawn; or
- (f) on the date of implementation of such proposals.

**21.**—(1) During any period when the procedure for becoming a school of another category is pending in relation to a school, a local authority shall not—

- (a) dispose of any land used wholly or partly for the purposes of the school, or
- (b) enter into a contract to dispose of such land,

except with the consent of the National Assembly.

(2) Sub-paragraph (1) does not apply in relation to a disposal which is made in pursuance of a contract entered into, or an option granted, before the procedure for becoming a school of another category was initiated in relation to the school.

(3) Where proposals for becoming a school of another category are approved, the procedure for becoming a school of another category is not to be treated as terminated for the purposes of this paragraph in relation to any land, where agreement is required to be reached under paragraph 2(1) of Schedule 10 to the Education Reform Act 1988 (identification of property, etc.) on any matter relating to that land, until the date on which that matter is finally determined.

(4) A disposal or contract shall not be invalid or void by reason only that it has been made or entered into in contravention of this paragraph and a person acquiring land, or entering into a contract to acquire land, from a local authority shall not be concerned to enquire whether any consent required by this paragraph has been given.

(5) This paragraph has effect notwithstanding anything in section 123 of the Local Government Act 1972<sup>(1)</sup> (general power to dispose of land) or in any other enactment; and the consent required by this paragraph shall be in addition to any consent required by subsection (2) of that section or by any other enactment.

(6) In this paragraph—

- (a) references to disposing of land include granting or disposing of any interest in land, and
- (b) references to entering into a contract to dispose of land include granting an option to acquire land or such an interest.

**22.**—(1) During any period when the procedure for becoming a school of another category is pending in relation to a school, a local authority shall not, in relation to any land of the authority used or held for the purposes of the school, take without the consent of the National Assembly any action by which the land ceases to any extent to be so used or held.

(2) If in the case of any school—

- (a) proposals that a school become a school of another category are approved, and
- (b) a local authority have, in relation to any land, taken any action in contravention of sub-paragraph (1),

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(1) 1972 c. 70.

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the provisions relating to the transfer of property shall have effect as if, immediately before the implementation date in relation to the change of category, the property were used or held by the authority for the purposes for which it was used or held when the procedure for becoming a school of another category was initiated.

(3) In this paragraph—

- (a) “the provisions relating to the transfer of property” means this Schedule and section 198 of, and Schedule 10 to, the Education Reform Act 1988, and
- (b) the references to taking action include appropriating property for any purpose.