

**Changes to legislation:** School Standards and Framework Act 1998, Part I is up to date with all changes known to be in force on or before 08 May 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

# SCHEDULES

## SCHEDULE 22

### DISPOSALS OF LAND IN CASE OF CERTAIN SCHOOLS AND DISPOSALS ON DISCONTINUANCE

#### Modifications etc. (not altering text)

- C1** Sch. 22 excluded (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), Sch. 1 para. 10(2)(c); S.I. 2010/1937, art. 2, Sch. 1

### PART I

#### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS [<sup>F1</sup>IN WALES]: DISPOSALS OF LAND

#### Textual Amendments

- F1** Words in Sch. 22 Pt. 1 heading inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 3; S.I. 2007/935, art. 7(p) (with art. 8(5))

#### *Disposal of land by governing body of foundation, voluntary or foundation special school*

- 1 (1) [<sup>F2</sup>Subject to sub-paragraph (1A),] this paragraph applies to any disposal by the governing body of a foundation [<sup>F3</sup>or voluntary] school [<sup>F4</sup>in Wales] of—
- <sup>F5</sup>(a) any land acquired under a transfer under section 201(1)(a) of the <sup>M1</sup>Education Act 1996, or acquired under paragraph 2 of Schedule 3 or paragraph 16 of Schedule 6 [<sup>F6</sup>(including that provision as applied by any enactment)] or paragraph 5(4)(c) [<sup>F7</sup>or 5(4B)(d)] of this Schedule or under any regulations made under paragraph 5 of Schedule 8;
  - <sup>F8</sup>(aa) any land acquired under paragraph 7 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under that paragraph as applied by section 76(1) of that Act or under Part 3 of Schedule 4 to that Act;
  - (b) any land acquired from a foundation body;
  - <sup>F9</sup>(c) .....
  - (d) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the <sup>M2</sup>Education Act 1996);
  - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the [<sup>F10</sup>local authority] as expenditure of a capital nature; or

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- (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).

[<sup>F11</sup>(1A) This paragraph does not apply to any disposal which—

- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
- (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation [<sup>F12</sup>established otherwise than under this Act].]

(2) The governing body shall not make [<sup>F13</sup>any disposal to which this paragraph applies] without the written consent of the [<sup>F14</sup>Assembly].

(3) Where the governing body apply to the [<sup>F15</sup>Assembly] for [<sup>F16</sup>its] consent to any such disposal [<sup>F17</sup>and [<sup>F18</sup>the Assembly] decides to give that consent], [<sup>F18</sup>the Assembly] may do one or more of the following, namely—

- (a) require the land or any part of the land to be transferred to such local authority as [<sup>F18</sup>the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [<sup>F18</sup>the Assembly] determines to be appropriate; and
- (b) give the governing body, when the land or any part of the land is disposed of—
- (i) a direction to pay, either to [<sup>F19</sup>the Assembly] or to such local authority as [<sup>F18</sup>the Assembly] may specify, the whole or any part of the proceeds of disposal; and
- (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.

(4) More than one direction may be given under sub-paragraph (3)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.

(5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—

- (a) prepared a statement in writing—
- (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
- (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
- (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

#### Textual Amendments

- F2** Words in Sch. 22 para. 1(1) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), [Sch. 17 para. 2\(2\)\(a\)](#) (with s. 119)
- F3** Words in Sch. 22 para. 1(1) substituted (W.) (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 19\(14\)\(a\)\(i\)](#); S.I. 2013/1800, [art. 3\(j\)](#)
- F4** Words in Sch. 22 para. 1(1) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 4\(2\)\(a\)](#); S.I. 2007/935, [art. 7\(p\)](#) (with [art. 8\(5\)](#))

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- F5** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F6** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F7** Words in Sch. 22 para. 1(1)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(2)(b)** (with s. 119)
- F8** Sch. 22 para. 1(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(a)(ii)**; S.I. 2013/1800, **art. 3(j)**
- F9** Sch. 22 para. 1(1)(c) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 4(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F10** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F11** Sch. 22 para. 1(1A) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(3)** (with s. 119)
- F12** Words in Sch. 22 para. 1(1A)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F13** Words in Sch. 22 para. 1(2) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(4)** (with s. 119)
- F14** Word in Sch. 22 para. 1(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F15** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F16** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F17** Words in Sch. 22 para. 1(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(5)** (with s. 119)
- F18** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F19** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(c)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

#### Marginal Citations

**M1** 1996 c. 56.

**M2** 1996 c. 56.

#### *Disposal of land by foundation body*

- 2 (1) This paragraph applies to any disposal by a foundation body [<sup>F20</sup>in Wales] of—
- (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 [<sup>F21</sup>(including that provision as applied by any enactment)] or paragraph 5 or 6 of Schedule 21 or under any regulations made under paragraph 5 of Schedule 8 <sup>F22</sup>...;
  - [<sup>F23</sup>(aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under either of those paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act;]
  - (b) any land acquired from the governing body of a maintained school;
  - (c) any land acquired from another foundation body;

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- (d) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the [<sup>F24</sup>Assembly] on or after the appointed day;
- (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the [<sup>F10</sup>local authority] as expenditure of a capital nature; or
- (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).

[<sup>F25</sup>(1A) A “foundation body in Wales” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a [<sup>F10</sup>local authority] in Wales.]

- (2) The foundation body shall not make any such disposal without the written consent of the [<sup>F26</sup>Assembly].
- (3) Where the foundation body apply to the [<sup>F27</sup>Assembly] for [<sup>F28</sup>its] consent to any such disposal [<sup>F29</sup>and [<sup>F30</sup>the Assembly] decides to give that consent], [<sup>F30</sup>the Assembly] may do either or both of the following, namely—
  - (a) make any such requirement as is mentioned in paragraph 1(3)(a); and
  - (b) give any such direction to the foundation body as [<sup>F30</sup>the Assembly] could give to a governing body under paragraph 1(3)(b).
- (4) More than one direction may be given under sub-paragraph (3)(b) to make a payment in relation to the proceeds of disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
  - (a) prepared a statement in writing—
    - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
    - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
  - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.

#### Textual Amendments

- F10** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F20** Words in Sch. 22 para. 2(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F21** Words in Sch. 22 para. 2(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(3)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F22** Words in Sch. 22 para. 2(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))

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- F23** Sch. 22 para. 2(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(b)**; S.I. 2013/1800, **art. 3(j)**
- F24** Word in Sch. 22 para. 2(1)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(2)(c)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F25** Sch. 22 para. 2(1A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F26** Word in Sch. 22 para. 2(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F27** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F28** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(5)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F29** Words in Sch. 22 para. 2(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 3** (with s. 119)
- F30** Words in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 5(5)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

*<sup>F31</sup>Disposal of land by trustees of foundation school <sup>F32</sup>...*

**Textual Amendments**

- F31** Sch. 22 para. 2A and cross-heading inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 4** (with s. 119)
- F32** Words in Sch. 22 para. 2A heading omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(viii)**; S.I. 2013/1800, art. 3(j)

- 2A (1) This paragraph applies to any disposal by the trustees of a foundation <sup>F33</sup>... school [<sup>F34</sup>in Wales] of—
- (a) any land acquired under paragraph 2 of Schedule 3, under paragraph 16 of Schedule 6 (including that provision as applied by any enactment), under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8,
    - [<sup>F35</sup>(aa) any land acquired under paragraph 7 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under that paragraph as applied by section 76(1) of that Act or under Part 3 of Schedule 4 to that Act;]
  - (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (a) [<sup>F36</sup>or (aa)], or
  - (c) any land falling within sub-paragraph (2) which was acquired by the trustees from the governing body of the school or of another foundation <sup>F37</sup>... school.
- (2) Land falls within this sub-paragraph if—
- (a) it had been acquired by the governing body—
    - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
    - (ii) under any of the provisions mentioned in sub-paragraph (1)(a) [<sup>F38</sup>or (aa)], or
  - (b) it had been acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in paragraph (a) [<sup>F39</sup>or (aa)].

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- (3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the [<sup>F40</sup>Assembly].
- (4) Where the trustees apply to the [<sup>F41</sup>Assembly] for [<sup>F42</sup>its] consent to any such disposal and [<sup>F43</sup>the Assembly] decides to give that consent, [<sup>F43</sup>the Assembly] may do one or more of the following, namely—
- (a) require the land or any part of the land to be transferred to such local authority as [<sup>F43</sup>the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [<sup>F43</sup>the Assembly] determines to be appropriate; and
  - (b) give the trustees, when the land or any part of the land is disposed of—
    - (i) a direction to pay to such local authority as [<sup>F43</sup>the Assembly] may specify the whole or any part of the proceeds of the disposal; and
    - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (5) More than one direction may be given under sub-paragraph (4)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Where the trustees of a foundation <sup>F44</sup>... school [<sup>F45</sup>in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
  - (b) the value of the land as at the date of any direction under sub-paragraph (4)(b)(i) or (ii) shall be treated as proceeds of the disposal of the land.]

#### Textual Amendments

- F33** Words in Sch. 22 para. 2A(1) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(i); S.I. 2013/1800, art. 3(j)
- F34** Words in Sch. 22 para. 2A(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(2); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F35** Sch. 22 para. 2A(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(ii); S.I. 2013/1800, art. 3(j)
- F36** Words in Sch. 22 para. 2A(1)(b) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(iii); S.I. 2013/1800, art. 3(j)
- F37** Words in Sch. 22 para. 2A(1)(c) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(iv); S.I. 2013/1800, art. 3(j)
- F38** Words in Sch. 22 para. 2A(2)(a)(ii) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(v); S.I. 2013/1800, art. 3(j)
- F39** Words in Sch. 22 para. 2A(2)(b) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(vi); S.I. 2013/1800, art. 3(j)
- F40** Word in Sch. 22 para. 2A(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(3); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F41** Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(3); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F42** Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(4)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))

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- F43** Words in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(4)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F44** Words in Sch. 22 para. 2A(6) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(c)(vii)**; S.I. 2013/1800, art. 3(j)
- F45** Words in Sch. 22 para. 2A(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(5)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

*Disposal of land by trustees of foundation <sup>F46</sup>or voluntary] school*

**Textual Amendments**

- F46** Words in Sch. 22 para. 3 heading substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(viii)**; S.I. 2013/1800, art. 3(j)

- 3 (1) <sup>F47</sup>Subject to sub-paragraph (2A),] this paragraph applies to any disposal by the trustees of a foundation <sup>F48</sup>or voluntary] school <sup>F49</sup>in Wales] of—
- (a) any land acquired under section 60, 61 or 70 of the <sup>M3</sup>Education Act 1996, under paragraph 2, 4 or 9 of Schedule 3 or paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment)<sup>F50</sup>, under paragraph 5(4B)(d) of this Schedule] or under any regulations made under paragraph 5 of Schedule 8 <sup>F51</sup>...;
  - <sup>F52</sup>(aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under those paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act;]
  - (b) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the <sup>F10</sup>local authority] as expenditure of a capital nature;
  - (c) any land acquired by the governing body of the school—
    - (i) under a transfer under section 201(1)(a) of the <sup>M4</sup>Education Act 1996, or
    - (ii) wholly or partly with the proceeds of disposal of any land so acquired,
 and transferred by the governing body to be held on trust by the trustees;
  - <sup>F53</sup>(d) .....
  - (e) any land acquired, or enhanced in value, wholly or partly by means of—
    - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the <sup>M5</sup>Education Act 1996), or
    - (ii) any grant paid under section 216(2) of that Act;
  - (f) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph <sup>F54</sup>... (e); or
  - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the <sup>M6</sup>Education Act 1996).

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(2) If a voluntary aided school [<sup>F55</sup>in Wales] was, immediately before the appointed day, a controlled school within the meaning of the <sup>M7</sup>Education Act 1996, this paragraph also applies to any disposal by the trustees of the school of any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of that Act.

[<sup>F56</sup>(2A) Nothing in sub-paragraph (1) applies in relation to any disposal to the extent that it is a disposal to which paragraph 2A applies.]

(3) Where paragraph (a), [<sup>F57</sup>(aa),] (b) or (c) of sub-paragraph (1) or sub-paragraph (2) applies, the trustees shall notify the [<sup>F10</sup>local authority] that that provision applies to them and they or their successors shall pay to the authority so much of the proceeds of disposal as may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the [<sup>F58</sup>Assembly].

(4) In making any determination under sub-paragraph (3), the trustees and the authority, or the [<sup>F59</sup>Assembly], as the case may be, shall have regard in particular to—

- (a) the value, as at the date of the determination, of the land acquired from the authority;
- (b) any enhancement in value of the land attributable to expenditure by the [<sup>F10</sup>local authority], the trustees or the governing body of the school on school buildings on the land; and
- (c) any payments already made by the trustees to the authority—
  - (i) in respect of the current school site; or
  - (ii) under section 60(4) of the <sup>M8</sup>Education Act 1996 or under paragraph 2(6) of Schedule 3 or paragraph 16(5) of Schedule 6 to this Act [<sup>F60</sup>or under paragraph 7(6) of Schedule 3 to the School Standards and Organisation (Wales) Act 2013].

(5) More than one determination may be made under sub-paragraph (3) in relation to a disposal of land within sub-paragraph (1) or (2) where it is just to do so, in particular where the disposal involves the creation of a lease.

(6) Sub-paragraph (1)(b) shall not apply in the case of any expenditure unless the authority—

- (a) prepared a statement in writing—
  - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
  - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
- (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.

(7) Sub-paragraph (3) does not apply in the case of land acquired under section 60 or 61 of the <sup>M9</sup>Education Act 1996 or under paragraph 2 or 4 of Schedule 3 to this Act by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the <sup>M10</sup>Education Act 1996).

(8) Where paragraph <sup>F61</sup>... (e) or (f) of sub-paragraph (1) applies, the trustees shall notify the [<sup>F10</sup>local authority] that that paragraph applies to them and they and their



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successors shall (subject to sub-paragraph (9)) undertake to the authority to use the proceeds of disposal—

(a) for the purposes of the school, or

(b) for the purposes—

(i) of any other existing foundation [<sup>F62</sup>or voluntary] school, or

<sup>F63</sup>(ii) of any other proposed [<sup>F64</sup>voluntary] school, whether or not proposals have yet been published under [<sup>F65</sup>any enactment] in respect of that proposed school.

(9) Where it appears to the [<sup>F66</sup>Assembly] that the trustees have not given a suitable undertaking under sub-paragraph (8), the [<sup>F66</sup>Assembly] may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as [<sup>F67</sup>the Assembly] determines to be just.

(10) More than one direction may be given under sub-paragraph (9) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.

(11) Where paragraph (g) of sub-paragraph (1) applies, the governing body of the school shall repay the grant referred to in that paragraph to the [<sup>F10</sup>local authority] by whom the school is maintained, unless the governing body and the authority otherwise agree.

(12) Where the trustees of a foundation [<sup>F68</sup>or voluntary] school [<sup>F69</sup>in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—

(a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and

(b) the value of the land as at the date of any determination under sub-paragraph (3) or of any direction under sub-paragraph (9) shall be treated as proceeds of the disposal of the land.

### Textual Amendments

**F10** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

**F47** Words in Sch. 22 para. 3(1) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(a)** (with s. 119)

**F48** Words in Sch. 22 para. 3(1) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(i)**; S.I. 2013/1800, art. 3(j)

**F49** Words in Sch. 22 para. 3(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

**F50** Words in Sch. 22 para. 3(1)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(b)** (with s. 119)

**F51** Words in Sch. 22 para. 3(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))

**F52** Sch. 22 para. 3(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(ii)**; S.I. 2013/1800, art. 3(j)

**F53** Sch. 22 para. 3(1)(d) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(c), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))

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- F54** Words in Sch. 22 para. 3(1)(f) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(d), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F55** Words in Sch. 22 para. 3(2) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F56** Sch. 22 para. 3(2A) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(3)** (with s. 119)
- F57** Word in Sch. 22 para. 3(3) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(iii)**; S.I. 2013/1800, art. 3(j)
- F58** Word in Sch. 22 para. 3(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F59** Word in Sch. 22 para. 3(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F60** Words in Sch. 22 para. 3(4)(c)(ii) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(iv)**; S.I. 2013/1800, art. 3(j)
- F61** Word in Sch. 22 para. 3(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(5), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F62** Words in Sch. 22 para. 3(8)(b)(i) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(v)**; S.I. 2013/1800, art. 3(j)
- F63** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F64** Word in Sch. 22 para. 3(8)(b)(ii) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(vi)**; S.I. 2013/1800, art. 3(j)
- F65** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F66** Word in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F67** Words in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F68** Words in Sch. 22 para. 3(12) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 19(14)(d)(vii)**; S.I. 2013/1800, art. 3(j)
- F69** Words in Sch. 22 para. 3(12) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(7)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

#### Marginal Citations

- M3** 1996 c. 56.  
**M4** 1996 c. 56.  
**M5** 1996 c. 56.  
**M6** 1996 c. 56.  
**M7** 1996 c. 56.  
**M8** 1996 c. 56.  
**M9** 1996 c. 56.  
**M10** 1996 c. 56.

#### *Land required by <sup>F10</sup>local authority] for new school*

- 4 (1) This paragraph applies where, on an application made by a [<sup>F10</sup>local authority][<sup>F70</sup>in Wales], the [<sup>F71</sup>Assembly] is satisfied—
- (a) that any relevant land—

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- (i) held, or held on trust, for the purposes of a foundation [<sup>F72</sup>or voluntary] school by the governing body or the trustees of the school, or
- (ii) held by a foundation body for the purposes of the group of schools for which it acts,
- is not required for the purposes of the school or (as the case may be) those schools; and
- (b) that that land is required by the authority as the site for a new maintained school or as the site to which a maintained school is to be transferred.
- (2) In such a case the [<sup>F73</sup>Assembly] may by order require the relevant land to be transferred to the authority by the body or trustees holding the land, subject to the payment by the authority of such sum by way of consideration (if any) as [<sup>F74</sup>the Assembly] determines to be appropriate.
- (3) In this paragraph “relevant land” means land which was acquired by the governing body of the school, or (as the case may be) one of the schools, mentioned in subparagraph (1)(a) under a transfer under section 201(1)(a) of the <sup>M11</sup>Education Act 1996.

#### Textual Amendments

- F70** Words in Sch. 22 para. 4(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(2)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F71** Word in Sch. 22 para. 4(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(2)(b); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F72** Words in Sch. 22 para. 4(1)(a)(i) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(e); S.I. 2013/1800, art. 3(j)
- F73** Word in Sch. 22 para. 4(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(3)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F74** Words in Sch. 22 para. 4(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 8(3)(b); S.I. 2007/935, art. 7(p) (with art. 8(5))

#### Marginal Citations

- M11** 1996 c. 56.

**Changes to legislation:**

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**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. 14(3)(aa) inserted by [2011 nawm 7 s. 16\(2\)](#) (Amendment not applied to legislation.gov.uk - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- s. 18B inserted by [2011 nawm 7 s. 16\(3\)](#) (Amendment not applied to legislation.gov.uk - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- Sch. 22 para. 5(1B) inserted by [2023 c. 55 s. 235\(4\)](#)