

**Changes to legislation:** There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Cross Heading: Identification of land, other property, rights, liabilities and obligations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

#### TRANSFER AND APPORTIONMENT OF PROPERTY

##### Commencement Information

**II** Sch. 3 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

##### *Identification of land, other property, rights, liabilities and obligations*

- 1 (1) In respect of each college of further education prescribed under section 11 of this Act, the education authority and the college council shall, not later than the first transfer date, so far as practicable, arrive at such written agreements and execute such other instruments as are necessary or expedient—
- (a) to identify or define the land, other property, rights, liabilities and obligations to be transferred to and vest in the board of management for the college under section 16 of this Act; or
  - (b) for making any arrangements such as are mentioned in paragraph 2(2) below as will afford to the authority and the board as against each other such rights and safeguards as they may require for the proper discharge of their respective functions.
- (2) Any such agreement shall contain provision so far as is expedient to enable the creation, variation or extinction of interests in land or [<sup>F1</sup>title conditions] and for the granting of indemnities.
- (3) The education authority shall supply the college council of such a college with such information, including all documents relating to interests in land and [<sup>F2</sup>title conditions], as the college council may require for the purposes of this Schedule.
- (4) Where no such agreement is arrived at before the first transfer date, the Secretary of State may prescribe a different date by which such an agreement is to be arrived at, and an agreement arrived at in pursuance of this sub-paragraph shall be between the education authority and the board of management for the college and, for the purposes of an agreement arrived at in pursuance of this sub-paragraph, references in this Schedule to the college council shall be construed as references to the board of management.
- [<sup>F3</sup>(5) In this Schedule, “ title conditions ” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9). ]

##### Textual Amendments

**F1** Words in Sch. 3 para. 1(2) substituted (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), Sch. 14 para. 10(a)(i) (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

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- F2** Words in Sch. 3 para. 1(3) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [Sch. 14 para. 10\(a\)\(i\)](#) (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F3** Sch. 3 para. 1(5) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [Sch. 14 para. 10\(a\)\(ii\)](#) (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

#### Commencement Information

- I1** Sch. 3 para. 1 wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817, art. 3\(2\)](#), [Sch. 3](#)

- 2 (1) The land, other property, rights, liabilities and obligations mentioned in section 16(3) or (4) of this Act shall, where their nature permits, be divided or apportioned among the education authority and the board of management of any college for the purposes of which the land or property was held, used or obtained or, as the case may be, in relation to which the rights, liabilities or obligations subsisted in such proportions as may be appropriate.
- (2) Any land or right in relation to land, other property, right, liability or obligation the nature of which does not permit its division or apportionment shall be transferred to the board of management of such a college or retained by the education authority according to—
- (a) in the case of land or a right in relation to land, which of the education authority or the board of management of any such college appears, as at the first transfer date, to be likely to experience the greatest practical difficulty through not having possession of that land or, as the case may be, not being able to exercise the right, or where none of them appears likely to experience such difficulty to a greater extent than any other, which of them appears on that date to be likely to make use of the land or right to the greatest extent; or
- (b) in the case of any other property or of any right, liability or obligation, which of them appears on the first transfer date to be likely to make use of the property or right or, as the case may be, to be affected by the liability or obligation to the greatest extent,
- subject (in either case) to such arrangements for the protection of any party to which the land or other property or right, liability or obligation has not been transferred as may be agreed between the education authority and the college council for any such college or determined by the commissioner for further education assets under paragraph 4 below.
- (3) Where any land or any right relating to land falls to be divided or apportioned under sub-paragraph (1) above any rent payable by or to any party in respect of that land and any rates <sup>F4</sup>... or other outgoings running with the land or right shall be correspondingly divided or apportioned.

#### Textual Amendments

- F4** Words in Sch. 3 para. 2(3) repealed (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [Sch. 15](#) (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

#### Commencement Information

- I2** Sch. 3 para. 2 wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817, art. 3\(2\)](#), [Sch. 3](#)

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