
STATUTORY INSTRUMENTS

1996 No. 308 (S.22)

**LOCAL GOVERNMENT, SCOTLAND
EDUCATION, SCOTLAND**

**The Educational Endowments (Borders
Region) Transfer Scheme Order 1996**

Made - - - - *7th February 1996*
Laid before Parliament *23rd February 1996*
Coming into force - - *1st April 1996*

The Secretary of State, in exercise of the powers conferred on him by section 17(1), (2), (3), (4), (6) and (8) of the Local Government etc. (Scotland) Act 1994⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Educational Endowments (Borders Region) Transfer Scheme Order 1996 and shall come into force on 1st April 1996.

Making of Scheme

2. The Scheme set out in the Schedule to this Order shall have effect.

St Andrew's House,
Edinburgh
7th February 1996

Raymond S Robertson
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE

Article 2

THE EDUCATIONAL ENDOWMENTS (BORDERS REGION) TRANSFER SCHEME 1996

Citation

1. This Scheme may be cited as the Educational Endowments (Borders Region) Transfer Scheme 1996.

Interpretation

2. In this Scheme—

- (a) references to the Borders Regional Council and the Berwickshire, Ettrick and Lauderdale, Roxburgh and Tweeddale District Councils are to those councils as constituted under section 2 of the Local Government (Scotland) Act 1973⁽²⁾;
- (b) references to The Scottish Borders Council are to that Council as constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

Transfer of interests in educational endowments from the Borders Regional Council to The Scottish Borders Council

3.—(1) Where immediately before 1st April 1996 there were vested in the Borders Regional Council—

- (a) to any extent, any educational endowments;
- (b) any powers with respect to educational endowments;
- (c) any rights to be paid money out of educational endowments,

such educational endowments shall to the same extent, and such powers and rights shall, on that date be transferred to and vest in The Scottish Borders Council.

(2) Where immediately before 1st April 1996 there were vested by virtue of his office in the holder of an office connected with the Borders Regional Council, or in a person nominated by that Council—

- (a) to any extent, any educational endowments;
- (b) any powers with respect to education endowments,

such educational endowments shall to the same extent, and such powers shall, on that date be transferred to and vest in—

- (i) in the case where they were vested by virtue of his office in a councillor, or in the holder of a specified office held by a councillor, a councillor of The Scottish Borders Council nominated by that Council for the purpose;
- (ii) in the case where they were vested by virtue of his office in an officer of the Borders Regional Council, the proper officer of The Scottish Borders Council;
- (iii) in the case where they were vested in a person nominated by the Borders Regional Council, a person nominated by The Scottish Borders Council.

(2) 1973 c. 65; section 2 is repealed by the Local Government etc. (Scotland) Act 1994 (c. 39), section 180(2) and Schedule 14.

Transfer of interests in educational endowments from district councils to The Scottish Borders Council

4.—(1) Where immediately before 1st April 1996 there were vested in the Berwickshire, Ettrick and Lauderdale, Roxburgh or Tweeddale District Council—

- (a) to any extent, any educational endowments;
- (b) any powers with respect to educational endowments;
- (c) any rights to be paid money out of educational endowments,

such educational endowments shall to the same extent, and such powers and rights shall, on that date be transferred to and vest in The Scottish Borders Council.

(2) Where immediately before 1st April 1996 there were vested by virtue of his office in the holder of an office connected with the Berwickshire, Ettrick and Lauderdale, Roxburgh or Tweeddale District Council, or in a person nominated by that Council—

- (a) to any extent, any educational endowments;
- (b) any powers with respect to educational endowments,

such educational endowments shall to the same extent, and such powers shall, on that date be transferred to and vest in—

- (i) in the case where they were vested by virtue of his office in a councillor, or in the holder of a specified office held by a councillor, a councillor of The Scottish Borders Council nominated by that Council for the purpose;
- (ii) in the case where they were vested by virtue of his office in an officer of the relevant district council, the proper officer of The Scottish Borders Council;
- (iii) in the case where they were vested in a person nominated by the relevant district council, a person nominated by The Scottish Borders Council.

Consequential provisions for interpretation of governing instruments of educational endowments

5.—(1) Unless the context otherwise requires, any reference, however expressed, in the governing instrument of any educational endowment to—

- (a) the Borders Regional Council;
- (b) the Berwickshire, Ettrick and Lauderdale, Roxburgh or Tweeddale District Council;
- (c) the county council of the former county of Berwick, Peebles, Roxburgh or Selkirk;
- (d) the council of any small burgh or district comprised in any of those former counties before 16th May 1973,

shall be construed as a reference to The Scottish Borders Council.

(2) Unless the context otherwise requires, any reference, however expressed, in the governing instrument of any educational endowment to—

- (a) a councillor of any council referred to in sub-paragraph (1) above, or the holder of a specified office held by such councillor, shall be construed as a reference to a councillor of The Scottish Borders Council nominated by that Council for the purpose;
- (b) an officer, or any specified officer, of a council referred to in sub-paragraph (1) above shall be construed as a reference to the proper officer of The Scottish Borders Council.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a Scheme for the transfer of interests in educational endowments from the Borders Regional Council and the district councils within Borders Region, namely the Berwickshire, Ettrick and Lauderdale, Roxburgh and Tweeddale District Councils, to the new unitary The Scottish Borders Council established under the Local Government etc. (Scotland) Act 1994.

The transfer takes effect on 1st April 1996, the day when the new unitary Councils take up their functions and the existing Regional and District Councils cease to exist.

Educational endowments are defined in section 122 of the Education (Scotland) Act 1980. Essentially they are property, heritable or moveable, dedicated to charitable educational purposes. Regional Councils as education authorities are most likely to have an interest in them but district councils may also have such an interest.

Paragraph 3 of the Scheme provides for the transfer of interests vested in the Borders Regional Council to The Scottish Borders Council. These interests may consist of the endowment itself, or powers with respect to an endowment (for instance, power to appoint trustees) or a right to payment of money out of an endowment. Provision is also made for endowments or powers vested in an office holder or nominee of the Borders Regional Council to be transferred to an office holder or nominee of The Scottish Borders Council.

Paragraph 4 provides similarly for the transfer of interests vested in the district councils or their office holders or nominees.

Paragraph 5 makes consequential provision for references in governing instruments of endowments to old local authorities and their office holders to be interpreted as references to The Scottish Borders Council and its councillors and officers.