
STATUTORY INSTRUMENTS

1996 No. 474 (S.39)

**LOCAL GOVERNMENT, SCOTLAND
EDUCATION, SCOTLAND**

**The Educational Endowments (Dumfries and
Galloway Region) Transfer Scheme Order 1996**

<i>Made</i>	- - - -	<i>26th February 1996</i>
<i>Laid before Parliament</i>		<i>11th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

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 (Dumfries and Galloway 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
26th February 1996

Raymond S Robertson
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made).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

SCHEDULE

Article 2

THE EDUCATIONAL ENDOWMENTS (DUMFRIES AND GALLOWAY REGION) TRANSFER SCHEME 1996

Citation

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

Interpretation

2. In this Scheme—

- (a) references to Dumfries and Galloway Regional Council and Annandale and Eskdale, Nithsdale, Stewartry and Wigton District Councils are to those Councils as constituted in section 2 of the Local Government (Scotland) Act 1973(2);
- (b) references to Dumfries and Galloway 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 Dumfries and Galloway Regional Council to Dumfries and Galloway Council

3.—(1) Where immediately before 1st April 1996 there were vested in Dumfries and Galloway 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 Dumfries and Galloway Council.

(2) Where immediately before 1st April 1996 there were vested by virtue of his office in the holder of an office connected with Dumfries and Galloway 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 Dumfries and Galloway 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 Dumfries and Galloway Regional Council, the proper officer of Dumfries and Galloway Council;
- (iii) in the case where they were vested in a person nominated by Dumfries and Galloway Regional Council, a person nominated by Dumfries and Galloway 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 Dumfries and Galloway Council

4.—(1) Where immediately before 1st April 1996 there were vested in Annandale and Eskdale, Nithsdale, Stewartry or Wigtown 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 Dumfries and Galloway Council.

(2) Where immediately before 1st April 1996 there were vested by virtue of his office in a holder of an office connected with Annandale and Eskdale, Nithsdale, Stewartry or Wigtown 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 Dumfries and Galloway 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 Dumfries and Galloway Council;
- (iii) in the case where they were vested in a person nominated by the relevant district council, a person nominated by Dumfries and Galloway Council.

Consequential provision 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) Dumfries and Galloway Regional Council;
- (b) Annandale and Eskdale, Nithsdale, Stewartry or Wigtown District Council;
- (c) the county council of the former county of Dumfries, Stewartry of Kirkcudbright or Wigtown;
- (d) the council of any burgh or district comprised in any of these former counties before 16th May 1975,

shall be construed as a reference to Dumfries and Galloway 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 Dumfries and Galloway 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 Dumfries and Galloway Council.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a Scheme for the transfer of interests in educational endowments from Dumfries and Galloway Regional Council and the district councils within Dumfries and Galloway Region, namely Annandale and Eskdale, Nithsdale, Stewartry and Wigtown District Councils, to the new unitary Dumfries and Galloway Council established under the Local Government etc. (Scotland) Act 1994.

The transfer takes effect on 1 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 Dumfries and Galloway Regional Council to Dumfries and Galloway 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 Dumfries and Galloway Regional Council to be transferred to an office holder or nominee of Dumfries and Galloway 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 educational endowments to old local authorities and their office holders to be interpreted as references to Dumfries and Galloway Council and its councillors and officers.