
STATUTORY INSTRUMENTS

1996 No. 475 (S.40)

**LOCAL GOVERNMENT, SCOTLAND
EDUCATION, SCOTLAND**

**The Educational Endowments (Central
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 (Central 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

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SCHEDULE

Article 2

THE EDUCATIONAL ENDOWMENTS (CENTRAL REGION) TRANSFER SCHEME 1996

Citation

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

Interpretation

2.—(1) In this Scheme —

(a) references to Central Regional Council and to Clackmannan, Falkirk and Stirling District Councils are to those councils as constituted under section 2 of the Local Government (Scotland) Act 1973(2); and

(b) references to Clackmannanshire, Falkirk and Stirling Councils are to those Councils as constituted under section 2 of the Local Government etc.(Scotland) Act 1994.

(2) In this Scheme, unless the context otherwise requires, any reference to a numbered paragraph or to the Schedule is a reference to a paragraph of, or the Schedule to, this Scheme.

Transfer of specific interests in educational endowments from Central Regional Council to Clackmannanshire Council

3.—(1) On 1st April 1996 the educational endowments comprised in the Clackmannanshire Educational Trust(3) vested in Central Regional Council immediately before that date shall be transferred to and vest in Clackmannanshire Council.

(2) On 1st April 1996 all powers under the Clackmannanshire Educational Trust Scheme 1957 vested in Central Regional Council immediately before that date shall be transferred to and vest in Clackmannanshire Council.

Transfer of interests in any education endowments not specifically provided for from Central Regional Council to new authorities

4.—(1) Where immediately before 1st April 1996 there were vested in Central 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,

which are not specifically provided for in paragraph 3, then, subject to paragraph 6 and the Schedule, such educational endowments shall to the same extent, and such powers and rights shall, on that date be transferred to and vest in the appropriate new authority.

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

(a) to any extent, any educational endowments;

(b) any powers with respect to educational endowments,

then, subject to paragraph 6 and the Schedule, such educational endowments shall to the same extent, and such powers shall, on that date be transferred to and vest in —

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

(3) Governed by the Clackmannanshire Educational Trust Scheme 1957, approved by Order in Council dated 31st July 1957.

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- (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 appropriate new authority nominated by that authority for the purpose;
 - (ii) in the case where they were vested by virtue of his office in an officer of Central Regional Council, the proper officer of the appropriate new authority;
 - (iii) in the case where they were vested in a person nominated by Central Regional Council, a person nominated by the appropriate new authority.
- (3) In this paragraph, “the appropriate new authority” means —
- (a) subject to head (c) below, the new authority for the area in which any educational establishment to which the endowment relates is situated; or
 - (b) subject to head (c) below, where the endowment relates to no particular establishment, the new authority for the area in which the beneficiaries of the endowment are required under its governing instrument to reside or with which they are so required to have some other connection; or
 - (c) where heads (a) and (b) above do not apply, or where application of them indicates more than one new authority, the new authority for the area with which the endowment is most closely connected.

Transfer of interests in educational endowments from district councils to new authorities

5.—(1) Where immediately before 1st April 1996 there were vested in Clackmannan, Falkirk or Stirling 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,

then, subject to paragraph 6 and the Schedule, such educational endowments shall to the same extent, and such powers and rights shall, on that date be transferred to and vest in the successor authority.

(2) Where immediately before 1st April 1996 there were vested by virtue of his office in the holder of an office connected with Clackmannan, Falkirk or Stirling 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,

then, subject to paragraph 6 and the Schedule, 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 successor authority nominated by that authority 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 successor authority;
 - (iii) in the case where they were vested in a person nominated by the relevant district council, a person nominated by the successor authority.
- (3) In this paragraph, “the successor authority” means —
- (a) in relation to Clackmannan District Council, Clackmannanshire Council;
 - (b) in relation to Falkirk District Council, Falkirk Council;
 - (c) in relation to Stirling District Council, Stirling Council.

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Amendments of governing instruments

6. The governing instruments specified in the Schedule shall be amended in accordance with that Schedule.

Consequential provision for interpretation of governing instruments

7. Subject to paragraph 6 and the Schedule, and unless the context otherwise requires, where an educational endowment, or a power or right in respect of an educational endowment, is transferred by this Scheme, any reference, however expressed, in the governing instrument of the endowment in relation to that endowment, power or right, to a local authority or person in whom the endowment, power or right was at any time vested shall be construed as a reference to the Council or person in whom the endowment, power or right is vested under this Scheme.

SCHEDULE

Paragraph 6

AMENDMENTS OF GOVERNING INSTRUMENTS

Clackmannanshire Educational Trust Scheme 1957

1.—(1) The Clackmannanshire Educational Trust Scheme 1957(4) shall be amended in accordance with this paragraph.

(2) For the words “the County Council”, wherever they appear in the Scheme, substitute “the Council”.

(3) In section 1(1) for the definitions of “County” and “County Council” substitute:—

““County” means the area of the former County of Clackmannan and the burghs situated in it, as that area existed immediately before 16th May 1975;

“Council” means Clackmannanshire Council acting as governing body of the Clackmannanshire Educational Trust;”.

(4) For section 5 substitute:—

“5. The business of the endowment may be conducted by the Council themselves or any or all of that business may be delegated to a committee of the Council.”.

Stirlingshire Educational Trust Scheme 1957

2.—(1) The Stirlingshire Educational Trust Scheme 1957(5) shall be amended in accordance with this paragraph.

(2) For the words “the County Council”, wherever they appear in the Scheme, other than in the Fifth Schedule, substitute “each Council”.

(3) In section 1(1) —

(a) for the definitions of “County” and “County Council” substitute:—

““County” means the area of the former County of Stirling and the burghs situated in it, as that area existed immediately before 16th May 1975;

“Council” means either of Falkirk and Stirling Councils;”;

(b) after the definition of “date of this Scheme” insert:—

(4) Approved by Order in Council dated 31st July 1957.

(5) Approved by Order in Council dated 7th May 1958.

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““Education committee” means a committee of a Council to which section 124 of the Local Government (Scotland) Act 1973(6) applies;”.

(4) In section 3(1), for paragraphs (a) to (e) substitute:—

- “(a) seven persons to be elected by Falkirk Council, being members of that Council or non-councillor members of its education committee;
- (b) five persons to be elected by Stirling Council, being members of that Council or non-councillor members of its education committee;
- (c) one person to be elected by North Lanarkshire Council;
- (d) one person to be elected by Falkirk Council from among ministers of religion officiating in the County other than ministers of the Church of Scotland;”.

(5) For section 4 substitute:—

(1) The election of governors by each Council or by North Lanarkshire Council may be by the Council themselves or may be delegated to a committee of that Council.

(2) Each governor elected under section 3(1)(a), (b) or (c) shall, subject to section 6 of this Scheme, hold office until the next ordinary election of councillors of the Council which elected him to be a governor.”.

(6) For section 22(1)(c) substitute:—

- “(c) they shall pay to Falkirk and Stirling Councils a total of £90.30 to be expended by those Councils in accordance with section 50 of this Scheme, the amount paid to each Council being the total of the sums to be expended annually on prizes for persons attending educational establishments in their area, as those sums are stated in column (4) of the Fifth Schedule annexed hereto;”.

(7) In section 50(1) for the first sentence substitute:—

“Each Council shall expend the amount paid to them by the governing body under section 22(1) (c) of this Scheme in awarding the prizes described in the Fifth Schedule annexed hereto which are for persons attending educational establishments in their area.”.

(8) In section 50(2), for the words “in the County” substitute “in their area”.

(9) In the Fifth Schedule, for the words “the County Council”, wherever they appear, substitute “the relevant Council”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a Scheme for the transfer of interests in educational endowments from Central Regional Council and the district councils within Central Region, namely Clackmannan, Falkirk and Stirling District Councils, to the new unitary Clackmannanshire, Falkirk and Stirling Councils established under the Local Government etc.(Scotland) Act 1994.

(6) 1973 c. 65; section 124 was substituted by the Local Government etc. (Scotland) Act 1994 (c. 39), section 31.

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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 specifically for the transfer of the endowments comprised in the Clackmannanshire Educational Trust and the powers of Central Regional Council as governing body of that Trust from Central Regional Council to Clackmannanshire Council.

Paragraph 4 makes general provision for transfer of any interests in educational endowments, vested in Central Regional Council or its office-holders or nominees, which are not caught by the specific provision of paragraph 3. The general provision is, however, subject also to the specific amendments of the governing instruments of the Clackmannanshire and Stirlingshire Educational Trusts by the Schedule. Paragraph 4 transfers interests to the council (or their office-holders or nominees) for the area where the educational establishment to which the endowment relates is situated, or where it does not relate to a particular establishment to the council for the area in which the beneficiaries reside or with which they are required to have a connection. Where these rules do not apply or do not indicate a single council, the interest is transferred to the council for the area with which the endowment is most closely connected.

Paragraph 5 makes general provision for transfer of any interests in educational endowments of the district councils (or their office-holders or nominees) to the new councils which take over responsibility from their areas. Again this is subject to the Schedule.

Paragraph 6 with the Schedule provides for amendments of the governing instruments of the Clackmannanshire and Stirlingshire Educational Trusts consequential on local government reorganisation and on the provisions of the Scheme.

Paragraph 7 makes consequential provision for references in governing instruments of educational endowments to local authorities or persons in whom they were formerly vested to be construed as references to the councils or persons in whom they are vested under this Scheme.

Copies of governing instruments specifically referred to in this Order are available from the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, Edinburgh, EH12 9HH.