

SCHEDULE 2

Paragraph 8

AMENDMENTS OF BANFFSHIRE EDUCATIONAL TRUST SCHEME 1976

1. The Banffshire Educational Trust Scheme 1976(1) shall be amended in accordance with this Schedule.
2. Subject to the following paragraphs, for the word “Council”, wherever it appears in the Scheme, substitute “governing body”.
3. In paragraph 2(1)—
 - (a) delete the definitions of “Council” and “Education Committee”; and
 - (b) insert after the definition of “County” the following definition:—

““governing body” means the Governors of the Banffshire Educational Trust established and incorporated by paragraph 5;”.
4. For Part II and paragraphs 7 to 9 in Part III substitute—

“PART II

FUNDS OF THE TRUST

Endowments vested in the governing body

3. The endowment of the Banffshire Educational Trust (comprising the endowments listed in Parts I and II of Schedule 1 and any additional donations received since 22 January 1976), having been transferred from Grampian Regional Council to the governing body and vested in them on 1 April 1996 by paragraph 8 of the Educational Endowments (Grampian Region) Transfer Scheme 1996, shall remain vested in the governing body and be held, administered and applied by them exclusively in accordance with the provisions of this Scheme.

Annual payments into the Trust

4.—(1) The endowments listed in Part III of Schedule 1 shall remain vested in their respective Trustees.

(2) The said Trustees shall continue to pay each year to the governing body the sum shown in column (3) opposite the name of the respective Trustees shown in column (2) all of Schedule 2. The sums so paid shall form part of the income of the Trust.

PART IIA

CONSTITUTION OF THE GOVERNING BODY

Establishment and incorporation of the governing body

5.—(1) For the purpose of carrying this scheme into effect there shall be established a Joint Board of Aberdeenshire and Moray Councils, to be known as “The Governors of the Banffshire Educational Trust”, which as from 1 April 1996 shall be the governing body of the Banffshire Educational Trust as successor to Grampian Regional Council in accordance

(1) S.I.1976/93.

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with paragraph 8 of the Educational Endowments (Grampian Region) Transfer Scheme 1996.

(2) The Governors of the Banffshire Educational Trust shall be a body corporate and have a common seal, and shall have all rights, powers and privileges of a body corporate.

Composition of the governing body

5A. The governing body shall consist of—

- (a) three persons to be elected by Aberdeenshire Council being members of that Council; and
- (b) three persons to be elected by Moray Council being members of that Council.

Election of governors

5B. The election of governors under paragraph 5A may be by the relevant Council themselves or may be delegated to a committee of that Council.

Period of office

5C.—(1) Subject to paragraph 5D, each governor shall hold office until the 30th June following the next ordinary election of councillors of the Council which elected him to the governing body.

(2) Where in such an ordinary election a governor is not re-elected as a councillor that shall not prevent his continuing to hold office as governor until 30th June in accordance with sub-paragraph (1).

Resignations etc

5D.—(1) Save as provided by paragraph 5C(2), any governor shall be deemed to have vacated office as governor on ceasing to be a member of the Council which elected him.

(2) Any governor who intimates in writing his resignation of office, or who has had his estate sequestrated or has made a trust deed for creditors or who becomes incapacitated to act, or who for the period of one year and without reasonable cause fails to attend any meeting of the governing body, shall be held to have vacated office.

Re-election

5E. Any governor on the expiry of his period of office shall, subject to the provisions of paragraph 5D, be eligible for further election to the office of governor.

Vacancies

5F.—(1) Every vacancy whether occasioned by the expiry of a term of office as a governor, or by resignation or any other cause, shall be entered in the minute book.

(2) Each vacancy shall be intimated by the clerk of the governing body to the Council entitled to elect a successor. In the case of a vacancy caused by the expiry of the normal term of office, the intimation shall be made not less than one month before the date of the vacancy and in any other case as soon as may be after its occurrence. The intimation shall request the Council concerned to elect a successor within three months of its receipt.

(3) If the Council entitled to elect a governor fails to do so within the said period of three months, it shall be in the power of the governing body to appoint a successor provided

that the person appointed shall be a person eligible to be elected by the said Council. Any appointment under this sub-paragraph shall be deemed to be an election by the Council entitled to make the election.

Validity of proceedings of the governing body

5G. The proceedings of the governing body shall not be invalidated by any vacancy among the governors or by any defect in the election of any of the governors, subject always to the provisions of paragraph 8.

Execution of deeds

5H. All deeds and other writings, sealed with the common seal and signed by one of the governors, shall be held to be validly executed on behalf of the governing body.

Transitional arrangements

5I.—(1) The terms of office of the governors who are first elected under this Part of the Scheme shall be deemed to have begun on 1st April 1996.

(2) Aberdeenshire and Moray Councils shall use their powers of election under paragraph 5A so as to ensure that the membership of the governing body is complete as soon as practicable after 1st April 1996.

(3) Aberdeenshire and Moray Councils shall arrange for the first meeting of the governing body to be held as soon as practicable after 1st April 1996.

Chairman

5J. The governing body shall appoint a chairman from their own number at an ordinary meeting held at such period of the year as they may determine. They may make such arrangements under paragraph 9 of this scheme as they think fit for filling his place in the case of his absence.

Committees

5K.—(1) The governing body may appoint such committees of their own number as they think fit, appoint the convener of each committee, confer on each committee all such powers and give all such instructions as may appear expedient and fix the quorum of each committee.

(2) The governing body may appoint as additional members of any committee persons not being members of the governing body whom they deem specially fitted to assist in the work of such committee and any persons so appointed shall hold office for such period as the governing body may determine.

PART III

ADMINISTRATIVE ARRANGEMENTS

Administrative staff

6.—(1) The governing body may appoint a clerk or factor or such other officers as they consider necessary, at such reasonable salaries and under such conditions of service as they may determine.

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(2) Any officer of the governing body whose duties include intrusions with the funds vested in the governing body shall find such caution for his intrusions as the governing body may require.

(3) A governor acting as clerk, factor or other officer of the Trust shall not be entitled to any remuneration.

Meetings of the governing body

7.—(1) The governing body shall hold at least two ordinary meetings in each year at such place and time as they may determine.

(2) The chairman may at any time convene a special meeting of the governing body.

(3) Any two governors may for any cause which seems to them sufficient require a special meeting to be convened by giving notice in writing to the clerk of the governing body specifying the business to be transacted.

(4) At least seven days' notice of meetings shall be given and such notice, which shall be in writing, shall specify the date, time and place of the meeting and the business to be transacted.

(5) Notwithstanding the provisions of sub-paragraph (4) above, the chairman or any governor duly authorised by the chairman may convene a meeting on less than seven days' notice. No resolution or motion carried at such a meeting shall be valid unless it is voted for by a majority of the governors then in office or it is confirmed by a subsequent meeting convened under the provisions of sub-paragraph (4) above.

Quorum of the governing body

8.—(1) At all meetings of the governing body three shall form a quorum and, subject to the provisions of paragraph 7(5), all questions shall be determined by a majority of the governors present. In any case where there is an equality of votes, the chairman of any meeting shall have a second or casting vote in addition to a deliberative vote.

(2) If at any time appointed for a meeting or if before the business of any meeting has been completed the number of governors present is less than three, the governors present shall adjourn the meeting to such day or time as they may determine and the provisions of paragraph 7(4) shall apply.

Rules and standing orders

9. Subject to the provisions of this scheme, the governing body may make such rules and standing orders for the regulation of their proceedings, the keeping of records and such other matters connected with the business of the governing body as they think fit.”

5. In paragraph 21(6), delete the words “Council as”.
6. In paragraph 33, delete the words “Council as”.
7. In paragraph 42, for the words “the Council and of the Education Committee” substitute “Aberdeenshire and Moray Councils”.