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STATUTORY INSTRUMENTS

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**1996 No. 630 (S.65)**

**LOCAL GOVERNMENT, SCOTLAND  
EDUCATION, SCOTLAND**

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

<i>Made</i>	- - - -	<i>3rd March 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<sup>(1)</sup> 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 (Lothian 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  
31st March 1996

*Raymond S Robertson*  
Parliamentary Under Secretary of State, Scottish  
Office

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## SCHEDULE

Article 2

### THE EDUCATIONAL ENDOWMENTS (LOTHIAN REGION) TRANSFER SCHEME 1996

#### Citation

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

#### Interpretation

2.—(1) In this Scheme—

- (a) references to Lothian Regional Council and to City of Edinburgh, East Lothian, Midlothian and West Lothian District Councils are to those councils as constituted under section 2 of the Local Government (Scotland) Act 1973(2); and
- (b) references to City of Edinburgh, East Lothian, Midlothian and West Lothian Councils and to The Scottish Borders Council 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 Schedule is a reference to a paragraph of, or Schedule to, this Scheme.

#### **Transfer of specific interests in educational endowments from Lothian Regional Council to City of Edinburgh Council**

3.—(1) On 1st April 1996 the following educational endowments to the extent that they are vested in Lothian Regional Council immediately before that date shall be transferred to and vest to the same extent in City of Edinburgh Council:—

- (a) the endowments listed in Part I of Schedule 1;
- (b) the endowments comprised in the City of Edinburgh Educational Trust(3); and
- (c) the endowments comprised in the G Boyd Anderson Trust.

(2) On 1st April 1996 the following powers vested in Lothian Regional Council immediately before that date shall be transferred to and vest in City of Edinburgh Council:—

- (a) all powers with respect to educational endowments listed in Part I of Schedule 1;
- (b) all powers with respect to educational endowments listed in Part II of Schedule 1;
- (c) all powers with respect to the City of Edinburgh Educational Trust;
- (d) all powers with respect to the G Boyd Anderson Trust; and
- (e) all powers with respect to the David Westwood Bequest.

(3) On 1st April 1996 the right to be paid money in respect of the David Westwood Bequest, vested in Lothian Regional Council immediately before that date, shall be transferred to and vest in City of Edinburgh Council.

#### **Transfer of specific interests in educational endowments from Lothian Regional Council to East Lothian Council**

4. On 1st April 1996 the following powers vested in Lothian Regional Council immediately before that date shall be transferred to and vest in East Lothian Council:—

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(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 Edinburgh Educational Endowments Scheme 1938.

- (a) all powers with respect to the East Lothian Educational Trust<sup>(4)</sup>; and
- (b) all powers with respect to the Lamp of Lothian Collegiate Centre Trust.

#### **Transfer of specific interests in educational endowments from Lothian Regional Council to Midlothian Council**

5.—(1) On 1st April 1996 the endowment of the Mrs A Pringle Prize to the extent that it is vested in Lothian Regional Council immediately before that date shall be transferred to and vest to the same extent in Midlothian Council.

(2) On 1st April 1996 all powers with respect to the Mrs A Pringle Prize vested in Lothian Regional Council immediately before that date shall be transferred to and vest in Midlothian Council.

#### **Transfer of specific interests in educational endowments from Lothian Regional Council to West Lothian Council**

6.—(1) On 1st April 1996 the endowment of The Irene Elizabeth Miller Trust Fund to the extent that it is vested in Lothian Regional Council immediately before that date shall be transferred to and vest to the same extent in West Lothian Council.

(2) On 1st April 1996 the following powers vested in Lothian Regional Council immediately before that date shall be transferred to and vest in West Lothian Council:—

- (a) all powers with respect to the West Lothian Educational Trust<sup>(5)</sup>; and
- (b) all powers with respect to The Irene Elizabeth Miller Trust Fund.

#### **Disaggregation of the Midlothian Educational Trust**

7.—(1) On 1st April 1996 the endowments of the Midlothian Educational Trust<sup>(6)</sup> vested in Lothian Regional Council immediately before that date shall be transferred to new authorities in accordance with Part I of Schedule 2.

(2) Part II of Schedule 2 shall have effect in respect of the endowments so transferred.

#### **Transfer of interests in any educational endowments not specifically provided for from Lothian Regional Council to new authorities**

8.—(1) Where immediately before 1st April 1996 there were vested in Lothian 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 paragraphs 3 to 7, 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 Lothian 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,

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(4) Governed by the East Lothian Educational Trust Scheme 1957, approved by Order in Council dated 14th March 1958.

(5) Governed by the West Lothian Educational Trust Scheme 1957, approved by Order in Council dated 23rd August 1957.

(6) Governed by the Midlothian Educational Trust Scheme 1991, made on 2nd October 1991.

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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 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 Lothian Regional Council, the proper officer of the appropriate new authority;
  - (iii) in the case where they were vested in a person nominated by Lothian 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**

9.—(1) Where immediately before 1st April 1996 there were vested in City of Edinburgh, East Lothian, Midlothian or West Lothian 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 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 City of Edinburgh, East Lothian, Midlothian or West Lothian 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 successor authority 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 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 City of Edinburgh District Council, City of Edinburgh Council;
  - (b) in relation to East Lothian District Council, East Lothian Council;

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- (c) in relation to Midlothian District Council, Midlothian Council; and
- (d) in relation to West Lothian District Council, West Lothian Council.

**Consequential provision for interpretation of governing instruments**

**10.** Unless the context otherwise requires, where an educational endowment, or a power or right in respect of it, is transferred by this Scheme, any reference, however expressed, in the governing instrument of the endowment in relation to the 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 to whom the endowment, power or right is transferred by this Scheme.

SCHEDULE 1

Paragraph 3

EDUCATIONAL ENDOWMENTS AND POWERS  
TRANSFERRED TO CITY OF EDINBURGH COUNCIL

PART I

educational endowments transferred

Name of Endowment	Purpose	Location
James Clark	Prize	Boroughmuir/James Gillespie's HS
Ellen Smeaton Cowe	Prize	Colinton, Stenhouse, Royston, Craiglockhart PS
Monsignor Forsyth	Prize	St Cuthbert's PS
Fulton	Prize	Towerbank PS
Miss Graham	Prize	Towerbank PS
Grassmarket Child Garden	Support	Grassmarket
Dr W A Guthrie	Prize	Broughton HS
Hope Cottage Child Garden	Support	East Crosscauseway
Hossack Memorial Shield	Prize	Tynecastle HS
Tom Hunter VC	Prize	Tynecastle HS
J A Hutchison	Prize	Wardie PS
Margaret McCallum	Prize	Forrester HS
Peter McDougall	Prize	Tynecastle HS
Sir Richard Mackie	Prize	Leith Academy/Trinity Academy
Miss Macmillan	Prize	Leith Walk PS
George Ogilvie	Prize	Broughton HS

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Name of Endowment	Purpose	Location
James Ogilvie	Prize	Leith Academy
Elizabeth Philips	Prize	Corstorphine PS
Christina C Philp	Prize	Corstorphine PS
Norma Prentice	Prize	Broughton HS
Christian M Reid	Prize	Broughton HS
Schools Benevolent Fund	Support	City of Edinburgh
Isabella Smail	Prize	Roseburn PS
Sir Alexander Stevenson	Prize	Royal HS
George W Tait	Prize	Leith Academy
John W Tait	Scholarship	Leith Academy
Tynecastle Child Garden	Support	Tynecastle
George Watt	Prize	Towerbank PS
Helen Wilson	Prize	Leith PS
Alexander Wood	Prize	Corstorphine PS
Hugh Russell	Prize	South Queensferry Schools
Principal Hopkirk	Prize	Broughton/Portobello HS
J Evans Gordon	Prize	Queensferry HS
Dr John Mackie	Prize	Leith Academy
Eileen B Kerr	Prize	Davidson's Mains PS
W B Crawford	Prize	Granton PS
Jean B Marnie	Prize	Leith PS
Thomas M Duncan	Bursary	Trinity Academy
Jane McDermond	Bursary	James Gillespie's HS
Proctor	Bursary	Flora Stevenson's PS
Andrew Young	Bursary	Royal Mile PS
Dr K Grigor	Prize	Davidson's Mains PS
G C White	Bursary	Tynecastle HS
William Anderson Trust	Prize	Gilmerton PS
Leith Academy PA	Bursary	Leith Academy
W Currie Taylor	Bursary	Leith Academy
Royal High School Endowment Trust	Various	Royal HS
Gracie Allan	Prize	Boroughmuir HS
Dr Bain	Prize	Blackhall PS
Jane Brown	Prize	Granton PS

Name of Endowment	Purpose	Location
Burnett	Prize	James Gillespie's HS
Dr Cran	Prize	St Augustine's HS
Cunniston Memorial	Prize	Boroughmuir HS
Donaldson	Prize	James Gillespie's HS
Duncan	Prize	Trinity Academy
A K Fleming	Prize	Brunstane PS
John Flucker	Prize	St Augustine's HS
Jenkins	Prize	James Gillespie's HS
Bruce Laird	Prize	Leith Academy
John Munro	Prize	Craigmillar PS
Duncan McGregor	Prize	Leith Academy
John McKay	Prize	Brunstane PS
Donald McLean	Prize	Boroughmuir HS
D G McLennan's Trust	Equipment	Cowgate Nursery School
Hector McIvor	Prize	Royal HS
R B Smith	Prize	Trinity Academy
Tait	Prize	Trinity Academy
Margaret Ure	Pupil to University	Leith Academy
War Memorial	Prize	Trinity Academy
E Gladstone Walker	Prize	Abbeyhill PS
Thomas Wilson	Prize	Trinity Academy
Wishart	Prize	James Gillespie's HS

## PART II

educational endowments in respect of which powers are transferred

Charles Smith Trust  
Dean Orphanage and Cauvin's Trust  
Donaldson Trust  
Edinburgh College of Art  
Edinburgh University Court  
Fettes Trust  
George Heriot's Trust  
Heriot-Watt University Convocation  
Heriot Watt University Court  
Leith Industrial School Trust

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Lothian Homes Trust  
“Mars” Training Ship Fund  
Merchant Company Education Board  
Moray House Institute of Education  
Trefoil Holiday and Adventure Centre  
John Watson’s Trust

SCHEDULE 2

Paragraph 7

DISAGGREGATION OF THE MIDLOTHIAN EDUCATIONAL TRUST

PART I

transfer of endowments

*Endowments transferred to Midlothian Council*

**A.** Gibsone Bequest

James L Gray Bursary  
James Harper Bursary Fund  
Herkes' Bequest  
Kinnaird Fund and Vogrie or McLurg Mortification  
Marshall Memorial Medal Fund  
Stephenson’s Bequest  
James A Tod Fund  
Toxside School Annuity Fund  
Rev Dr Wright’s Endowment  
Young Bursary Fund  
Cathie Armstrong Memorial Prizes Fund  
Stuart Burns Botany Prize Fund  
Any funds not specifically transferred to other new authorities.

*Endowment transferred to City of Edinburgh Council*

**B.** Balerno and Currie Coronation Fund 1937.

*Endowments transferred to East Lothian Council*

**C.** Davidson’s Bequest etc

Delta Medal Fund  
J C Murdoch’s Bequest Fund.

*Endowment transferred to West Lothian Council*

**D. Moodie’s Mortification.**

*Endowments transferred to The Scottish Borders Council*

**E. Johnstone Bequest**

Wright Prize Fund.

For the purpose of this Part, the amount of each endowment transferred shall be such share of the total endowment of the Midlothian Educational Trust as may be agreed to be appropriate by the five transferee Councils (or failing agreement as may be determined by arbitration) having regard (as far as information is available) to the original value of each endowment, any subsequent events affecting the endowments, the amounts of any preferences or prizes to be provided out of each endowment, and any other relevant considerations.

## PART II

### governance of endowments

1. The endowments transferred to each new authority in accordance with paragraph 7(1) of this Scheme and Part I of this Schedule shall together constitute the endowment of a trust to be held, administered and applied by that new authority as governing body in accordance with the provisions of the Midlothian Educational Trust Scheme 1991(7) (in this Part of this Schedule called “the 1991 Scheme”) which shall remain in force only for the purpose of application to those trusts, and shall apply in accordance with the provisions of this Part of this Schedule.

2. In relation to the trusts constituted under paragraph 1 above, the 1991 Scheme shall apply as if—

- (a) any reference to “the Council” were a reference to the new authority holding the particular trust;
- (b) any reference to “the Trust” were a reference to the particular trust;
- (c) any reference to “the District” were a reference—
  - (i) in the case of the trust held by Midlothian Council, to the local government area of Midlothian;
  - (ii) in the case of the trust held by any other new authority, to the part of the area of the former County of Midlothian (as it existed immediately before 16th May 1975) falling within the local government area of that new authority; and
- (d) any other minor modifications were made which are necessary to enable the 1991 Scheme to apply to the particular trust.

3. Section 8(1) (annual payments into Trust) of the 1991 Scheme(8) shall have effect as if the reference to “the Council” were a reference to Midlothian Council.

4. In the application of sections 20 (preferences for certain beneficiaries) and 21 (variation of preferences etc) of the 1991 Scheme, each new authority holding a trust shall apply those sections only in respect of those entries in the Second Schedule to that Scheme which relate to endowments comprised in the trust held by them.

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(7) Made on 2nd October 1991.

(8) Section 8(2) has ceased to have effect on payment of a capital sum under section 8(3).

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5. In the application of section 25 (prizes) of the 1991 Scheme, each new authority shall apply that section only in respect of those entries in the Third Schedule to that Scheme which relate to schools in their area.

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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 Lothian Regional Council and the district councils within Lothian Region, namely City of Edinburgh, East Lothian, Midlothian and West Lothian District Councils to the new unitary City of Edinburgh, East Lothian, Midlothian and West Lothian Councils established under the Local Government etc. (Scotland) Act 1994 (and in the case of two small endowments to the new unitary The Scottish Borders Council).

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.

Paragraphs 3, 4, 5 and 6 of the Scheme, with Schedule 1, provide for the transfer of specific educational endowments and powers with respect to such endowments, and where appropriate rights to payment of money out of endowments, from Lothian Regional Council to City of Edinburgh, East Lothian, Midlothian and West Lothian Council respectively.

Paragraph 7 of the Scheme with Schedule 2 provides for disaggregation of the Midlothian Educational Trust. Its endowments are distributed to Midlothian, City of Edinburgh, East Lothian, West Lothian and The Scottish Borders Councils.

Paragraph 8 makes general provision for transfer of any interests in educational endowments, vested in Lothian Region or its office-holders or nominees, which may not have been caught by the specific provisions of paragraphs 3 to 7. Paragraph 8 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 9 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.

Paragraph 10 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 to whom they are transferred under the 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.

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