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STATUTORY INSTRUMENTS

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**1996 No. 477 (S.41)**

**LOCAL GOVERNMENT, SCOTLAND  
EDUCATION, SCOTLAND**

**The Educational Endowments (Tayside  
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<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 (Tayside 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 (TAYSIDE REGION) TRANSFER SCHEME 1996

#### Citation

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

#### Interpretation

2.—(1) In this Scheme—

(a) references to Tayside Regional Council and to Angus, City of Dundee and Perth and Kinross District Councils are to those Councils as constituted under section 2 of the Local Government (Scotland) Act 1973(2); and

(b) references to Angus, Dundee City and Perth and Kinross 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 Schedule is a reference to a paragraph of, or Schedule to, this Scheme.

#### Transfer of specific interests in educational endowments from Tayside Regional Council to Angus Council

3.—(1) On 1st April 1996 the educational endowments listed in Part I of Schedule 1 so far as vested in Tayside Regional Council immediately before that date shall be transferred to and vest in Angus Council.

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

(a) all powers of the Regional Council under the Angus Educational Trust Scheme 1935(3); and

(b) all powers with respect to the endowments listed in Part I of Schedule 1.

#### Transfer of specific interests in educational endowments from Tayside Regional Council to Dundee City Council

4.—(1) On 1st April 1996 the educational endowments listed in Part II of Schedule 1 so far as vested in Tayside Regional Council immediately before that date shall be transferred to and vest in Dundee City Council.

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

(a) all powers of the Regional Council under the City of Dundee Educational Trust Scheme 1966(4); and

(b) all powers with respect to the endowments listed in Part II of Schedule 1.

(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) Approved by Order in Council dated 2nd February 1937.

(4) Approved by the City of Dundee Educational Trust Scheme 1966 Order in Council 1966 (S.I.1966/812).

### **Transfer of specific interests in educational endowments from Tayside Regional Council to Perth and Kinross Council**

5.—(1) On 1st April 1996 the following educational endowments so far as vested in Tayside Regional Council immediately before that date shall be transferred to and vest in Perth and Kinross Council:—

- (a) the endowments comprised in the Perth and Kinross Educational Trust, governed by the Perth and Kinross Educational Trust Scheme 1964<sup>(5)</sup>;
- (b) the endowments listed in Part III of Schedule 1.

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

- (a) all powers under the Perth and Kinross Educational Trust Scheme 1964; and
- (b) all powers with respect to the endowments listed in Part III of Schedule 1.

(3) On 1st April 1996 the rights to be paid money under section 8 of the Perth and Kinross Educational Trust Scheme 1964 vested in Tayside Regional Council immediately before that date shall be transferred to and vest in Perth and Kinross Council.

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

6.—(1) Where immediately before 1st April 1996 there were vested in Tayside 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 5, then, subject to paragraph 8 and Schedule 2, 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 Tayside 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 8 and Schedule 2, 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 Tayside Regional Council, the proper officer of the appropriate new authority;
- (iii) in the case where they were vested in a person nominated by Tayside 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

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(5) Approved by the Perth and Kinross Educational Trust Scheme 1964 Order in Council 1965 (S.I. [1965/316](#)).

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- (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**

7.—(1) Where immediately before 1st April 1996 there were vested in Angus, City of Dundee or Perth and Kinross 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 8 and Schedule 2, 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 Angus, City of Dundee or Perth and Kinross 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 8 and Schedule 2, 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 Angus District Council, Angus Council;
- (b) in relation to City of Dundee District Council, Dundee City Council;
- (c) in relation to Perth and Kinross District Council, Perth and Kinross Council.

#### **Amendments of governing instruments**

8. The governing instruments specified in Schedule 2 shall be amended in accordance with that Schedule.

#### **Consequential provision for interpretation of governing instruments**

9. Subject to paragraph 8 and Schedule 2, 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 other 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 1

Paragraphs 3, 4 and 5

## MISCELLANEOUS ENDOWMENTS TRANSFERRED

## PART I

## miscellaneous endowments transferred to angus council

<i>Name of endowment</i>	<i>Purpose</i>	<i>School</i>
Grant Prize	Dux Medal	Southesk
Sturrock Medal	Dux Medal	Edzell
Victoria Prize Fund	Prize for good conduct	Edzell
Mrs Smart's Bequest	Sewing prize	Forfar Academy
Graham Bequest Craig School	Dux Medal	Ferryden
Graham Bequest Montrose Academy	Prize for sport or gymnastics	Montrose Academy
Susan A Milne Prize	Essay Medal	Forfar Academy
Rotary Golden Jubilee Prize	Medal for home economics, technical or business studies	Forfar Academy
Mrs Grant Endowment	Dux Medal	Langlands Primary
Montrose Operatic Society Prize	Prize for singing or music	Montrose Academy
Robert Henderson Prize	Prize for hard work	Glenisla
Emanuel Racionzer	Runner up to dux	Forfar Academy
Mrs A Rodgers Prize	Dux Medal and sewing prizes	Strathmartine
E F Cobb Dux Medal Arbroath	Dux Medal	Arbroath High
Donald Thornton Memorial Prize	Essay Prize	Arbroath High
Major A Mearns Medal	Physics Prize	Montrose Academy
Burnett Prize	Books for school library	Newtyle
Trust for Regilding Dome	Periodic regilding of dome	Montrose Academy
Sir W Lamond Prize	Dux Medal	Newtyle Primary
Maths Prize	Maths Prize for S4 pupil	Carnoustie
Scott Medal	English Prize	Forfar Academy
Peter & Jemima Hood Fund	Purchase of books or bookcases	Hayshead, Inverbrothock, Ladyloan, Muirfield, St

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<i>Name of endowment</i>	<i>Purpose</i>	<i>School</i>
		Thomas, Timmergreens, Warddykes
D R Mitchell Award	Violin Prize	All Montrose Primaries
Moffat-Sievwright Prize	Purchase of Prize	Forfar Academy
Moffat Sports Prize	Prize for sports	Chapelark, Kirkriggs, Langlands, Wellbrae (one every four years)
Warrack Essay Prize	Essay Prize	Montrose Academy
Montrose Academy War Memorial Prize		Montrose Academy
Scot-Australian Delegates Essay Prize	Essay Prize	Montrose Academy
J Herron Prize for Art	Art Prize	Forfar Academy
Personal Project Prize		
Aberlemno & Pitkenney Meals Fund		
Andover School Clock		
Wellington Boot Fund	Clothing for children in need	
Children's Fund		
H G Mitchell Bequest		
David Frew Memorial Prize		

## PART II

### miscellaneous endowments transferred to dundee city council

<i>Name of endowment</i>	<i>Purpose</i>
T M Davidson Bequest	Music Prize
Ducat Memorial Prize	
D Mackenzie Memorial Prize	Science Prize
Dundee Public Gym	For upkeep of Ward Road Gym
Ex Lord Provost Macmanus Fund	Awards to pupils for good citizenship
W M Ryle Smith Memorial Prize	Prizes for Eastern & Forthill Primary Schools
Dundee Bakery Students Association	Prizes for First Year Bakery student at Kingsway Technical College in hospitality or hotel management
A D S Robertson Bequest	
Old Seafielders Memorial Fund	Prize for Grove Academy

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<i>Name of endowment</i>	<i>Purpose</i>
Ruth Macdougall Memorial Trust	Prize for Morgan Academy in memory of pupil who died from cancer

### PART III

#### miscellaneous endowments transferred to perth and kinross council

<i>Name of endowment</i>	<i>Purpose</i>
Breadalbane Reading Room and Library	Provision of the reading room and library
Miss C C McLaren's Trust	Grants to local charities
John Napier Prize	Perth College
Margaret Napier Prize	Perth College
J L Anderson	Kinnoull Primary School

#### SCHEDULE 2

Paragraph 8

#### AMENDMENTS OF GOVERNING INSTRUMENTS

##### **Angus Educational Trust Scheme 1935**

1.—(1) The Angus Educational Trust Scheme 1935<sup>(6)</sup> 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 2(3)—

(a) for paragraph (a) substitute:—

“8 persons to be elected by the Council being members of the Council or non-councillor members of a committee of the Council to which section 124 of the Local Government (Scotland) Act 1973<sup>(7)</sup> applies.”; and

(b) delete paragraphs (b) to (f) inclusive.

(4) For section 5 substitute:—

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

(2) The governors elected by the Council shall hold office until the next ordinary election of councillors of the Council.”.

(5) In section 53 for the definitions of “The County” and “The County Council” substitute the following definitions:—

““The County” means the local government area of Angus described in Schedule 1 to the Local Government etc. (Scotland) Act 1994:

<sup>(6)</sup> Approved by Order in Council dated 2nd February 1937.

<sup>(7)</sup> 1973 c. 65; section 124 was substituted by the Local Government etc. (Scotland) Act 1994 (c. 39), section 31.

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“The Council” means Angus Council as constituted under section 2 of the Local Government etc. (Scotland) Act 1994”.

### **The Webster and Davidson Mortification for the Blind Scheme 1963**

**2.**—(1) The Webster and Davidson Mortification for the Blind Scheme 1963<sup>(8)</sup> shall be amended in accordance with this paragraph.

(2) In section 2(2)—

(a) for paragraph (a) substitute:—

“(a) the Lord Provost of Dundee City Council (hereinafter referred to as “the Lord Provost”);”; and

(b) for paragraph (g) substitute:—

“the proper officer of Dundee City Council having responsibility for education;”.

(3) In section 2(3), for paragraph (a) substitute:—

“(a) a councillor or other person elected by Dundee City Council;”.

(4) In section 4(1), delete from “Provided that” to the end.

(5) For section 6(1) substitute:—

“(1) the governor elected by Dundee City Council shall hold office until the next ordinary election of councillors of that Council.”.

(6) In section 6(2), for “the Town Council” substitute “Dundee City Council”.

### **The Perth and Kinross Educational Trust Scheme 1964**

**3.**—(1) The Perth and Kinross Educational Trust Scheme 1964<sup>(9)</sup> shall be amended in accordance with this paragraph.

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

(3) In section 1, for “the Joint County Council of the Combined County of Perth and Kinross” substitute “the Council”.

(4) In section 2(2)—

(a) for paragraph (a) substitute:—

“11 persons to be nominated by the Council from the Education Committee of the Council;”; and

(b) delete paragraphs (b) and (c).

(5) In section 2(3), for “triennial election of County Councillors” substitute “ordinary election of councillors”.

(6) In section 3, for “The Director of Education” substitute “An officer appointed by the Council for the purpose”.

(7) In section 56—

(a) for paragraphs (g) and (h) substitute:—

“(g) “County” means the local government area of Perth and Kinross (originally named Perthshire and Kinross) described in Schedule 1 to the Local Government etc. (Scotland) Act 1994;

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<sup>(8)</sup> Approved by the Webster and Davidson Mortification for the Blind Scheme 1963 Order in Council 1963 (S.I. 1963/1498).

<sup>(9)</sup> Approved by the Perth and Kinross Educational Trust Scheme 1964 Order in Council 1965 (S.I. 1965/316).



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- (h) “Council” means Perth and Kinross Council as constituted under section 2 of the Local Government etc. (Scotland) Act 1994;” and
- (b) after paragraph (i) insert:—
  - “(ii) “Education Committee” means a committee of the Council to which section 124 of the Local Government (Scotland) Act 1973 applies;”.

#### **The City of Dundee Educational Trust Scheme 1966**

4.—(1) The City of Dundee Educational Trust Scheme 1966(10) shall be amended in accordance with this paragraph.

- (2) For the words “Town Council”, wherever they appear in the Scheme, substitute “Council”.
- (3) In section 2(1)—
  - (a) for paragraph (c) substitute:—
    - “(c) “City” means the local government area of Dundee City (originally named City of Dundee) described in Schedule 1 to the Local Government etc. (Scotland) Act 1994;”;
  - (b) for paragraph (e) substitute:—
    - “(e) “Education Committee” means a committee of the Council to which section 124 of the Local Government (Scotland) Act 1973 applies;” and
  - (c) for paragraph (j) substitute:—
    - “(j) “Council” means Dundee City Council as constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and”.
- (4) In section 4(1), for paragraph (a) substitute:—
  - “(a) Five persons to be nominated by the Council from the Education Committee of the Council;”.
- (5) For section 5(1), substitute:—
  - “The nomination of governors from the Education Committee of the Council may be by the Council themselves or may be delegated to a committee of the Council.”.

#### **The Patrick Allan-Fraser Trust Scheme 1980**

5.—(1) The Patrick Allan-Fraser Trust Scheme 1980(11) shall be amended in accordance with this paragraph.

- (2) In the list in paragraph 4(2), for the entries “The Chairman of Tayside Regional Council” and “The Chairman of Angus District Council” substitute respectively the entries “The Convener of Angus Council” and “The Vice-Convener of Angus Council”.

#### **The Morgan Trust Scheme 1982**

- 6.—(1) The Morgan Trust Scheme 1982(12) shall be amended in accordance with this paragraph.
- (2) In section 2—
  - (a) For subsections (1) and (2) substitute the following two subsections:—

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(10) Approved by the City of Dundee Educational Trust Scheme 1966 Order in Council 1966 (S.I. 1966/812).

(11) S.I. 1980/2037.

(12) This is the Morgan Trust Scheme 1963, approved by the Morgan Trust Scheme 1963 Order in Council 1963 (S.I. 1963/1321), as amended and renamed by Decree of the Court of Session dated 18th March 1983 in the Petition of the Governors of the Morgan Trust for Approval of a Scheme.

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- “(1) four persons to be elected by Angus Council from their own number;  
(2) four persons to be elected by Dundee City Council from their own number;”.
- (b) delete subsections (3) and (4); and  
(c) renumber subsections (5) to (8) as subsections (3) to (6) respectively.
- (3) For section 3(1) substitute the following subsection:—  
“(1) The elections of governors by Angus and Dundee City Councils may be by the relevant Council themselves or may be delegated to a committee of the relevant Council.”.
- (4) For section 4 substitute the following section:—  
(1) The first election of governors by Angus Council and Dundee City Council under this Scheme as amended by the Educational Endowments (Tayside Region) Transfer Scheme 1996 shall be made before 1st July 1996, and the period of office of such governors shall begin on that date.  
(2) The governors elected by Tayside Regional Council and Angus and City of Dundee District Councils who are in office immediately before 1st April 1996 shall notwithstanding the amendment of this Scheme remain in office for the period April, May and June 1996 and shall demit office at the end of that period; and during that period section 6(1) of this Scheme shall not apply to them.”.
- (5) In section 5(1), for “any of subsections (1) to (4)” substitute “subsection (1) or (2)”.

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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 Tayside Regional Council and the district councils within Tayside Region, namely Angus, City of Dundee and Perth and Kinross District Councils to the new unitary Angus, Dundee City and Perth and Kinross Councils 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.

Paragraphs 3, 4 and 5, of the Scheme, with Schedule 1, provide for the transfer of specific educational endowments, powers with respect to such endowments, and where appropriate rights to payment of money out of endowments, from Tayside Regional Council to Angus Council, Dundee City Council and Perth and Kinross Council respectively.

Paragraph 6 makes general provision for transfer of any interests in educational endowments, vested in Tayside Regional Council or its office-holders or nominees, which may not have been caught by the specific provisions of paragraph 3, 4 and 5. The general provision is, however, subject also to any specific amendments of governing instruments by Schedule 2. Paragraph 6 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 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 7 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 for their areas. Again this is subject to Schedule 2.

Paragraph 8 with Schedule 2 provides for amendments of the governing instruments of educational endowments consequential on local government reorganisation and on the provisions of the Scheme.

Paragraph 9 makes consequential provision for references in governing instruments of educational endowments to local authorities or persons in whom endowments, powers or rights 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.