STATUTORY INSTRUMENTS

1990 No. 843

CHARITIES

The Charities (Borough Lands Charity, Chippenham) Order 1990

Made - - - -	*4th April 1990*
Coming into force	*18th April 1990*

Whereas the Charity Commissioners for England and Wales have, in pursuance of subsection (1) of section 19 of the Charities Act 1960(a), settled the Scheme set out in the Appendix to this Order with a view to its being given effect under that section:

And Whereas the said Scheme does not alter any statutory provision contained in or having effect under any public general Act of Parliament:

And Whereas a draft of this Order has been laid before Parliament and the period of forty days mentioned in section 6(1) of the Statutory Instruments Act 1946(b) has expired, and neither House of Parliament has within that period resolved that the Order be not made:

Now, therefore, in pursuance of section 19(2) of the Charities Act 1960, I hereby make the following Order:–

1. This Order may be cited as the Charities (Borough Lands Charity, Chippenham) Order 1990 and shall come into force on the fourteenth day after the day on which it is made.

2. The Scheme set out in the Appendix to this Order shall have effect.

David Waddington

Home Office
4th April 1990

One of Her Majesty's Principal Secretaries of State

(a) 1960 c.58.
(b) 1946 c.36.

APPENDIX

SCHEME FOR THE ADMINISTRATION OF THE CHARITY KNOWN AS THE BOROUGH LANDS CHARITY, IN THE FORMER BOROUGH OF CHIPPENHAM, IN THE COUNTY OF WILTSHIRE

Whereas the Charity known as the Borough Lands Charity, in the former Borough of Chippenham, in the County of Wiltshire, is now regulated by:–

(1) Letters Patent of the 2nd May 1554;

(2) Letters Patent of the 29th January 1560;

(3) Letters Patent of the 20th March 1604;

(4) Letters Patent of the 21st November 1607;

(5) Letters Patent of the 13th March 1685:

And Whereas the Trustee of the Charity has made application on behalf of the Charity to the Charity Commissioners for a Scheme for the administration thereof:

And Whereas it appears to the Charity Commissioners that a Scheme should be established for the administration of the Charity but that it is necessary for the Scheme to make provision which goes beyond the powers exercisable by them apart from section 19 of the Charities Act 1960:

And Whereas in pursuance of section 21 of the Charities Act 1960 public notice of the Charity Commissioners' proposals for this Scheme has been given and no representations have been received by the Charity Commissioners in respect thereof:

Now, therefore, the Charity Commissioners for England and Wales, in pursuance of section 19(1) of the Charities Act 1960, hereby settle the following Scheme:–

SCHEME

1. *Administration of Charity.* The above-mentioned Charity and all the property thereof shall be administered and managed subject to and in conformity with the provisions of this Scheme, in substitution for the provisions now regulating the Charity, by the body of Trustees hereinafter constituted.

2. *Vesting.* The land specified in the schedule hereto is hereby vested in the Official Custodian for Charities for all the estate and interest therein belonging to or held in trust for the Charity.

3. *Holding of investments.* The Trustees may–

(a) make such arrangements as they think fit for any investments of the Charity, or income from those investments, to be held by a corporate body as the Trustees' nominee; and

(b) pay reasonable and proper remuneration to any corporate body acting as the Trustees' nominee in pursuance of this clause.

TRUSTEES

4. *Trustees.* The body of Trustees shall consist when complete of twelve competent persons being–

Ten Nominative Trustees and

Two Co-optative Trustees.

5. *Nominative Trustees.*—(1) Except at first as hereinafter provided the Nominative Trustees shall be appointed as follows:–

Five by North Wiltshire District Council,

Four by Chippenham Town Council, and

One by Chippenham Burgesses Guild.

Except at first as hereinafter provided each appointment shall be made for a term of four years at a meeting convened and held according to the ordinary practice of the appointing body.

(2) The Nominative Trustees shall be persons who through residence, occupation or employment, or otherwise have special knowledge of the Parish of Chippenham.

(3) No member of North Wiltshire District Council may be appointed by the Council as a Trustee unless the number of Trustees appointed by the Council being members of the Council is less than three.

(4) No member of Chippenham Town Council may be appointed by the Council as a Trustee unless the number of Trustees appointed by the Council being members of the Council is less than three.

6. *First Nominative Trustees.* The following persons shall be the first Nominative Trustees and subject to the provisions hereinafter contained for determination of trusteeship shall hold office as if they had been appointed by the respective appointing bodies under this Scheme, for the following periods respectively:–

As appointees of North Wiltshire District Council–

Douglas Joseph William Cleverly, of 41 The Paddocks, Chippenham, in the County of Wiltshire

David Christopher Hartley, of The Close, Biddestone, Chippenham, and

Eric John Hughes, of 111 Malmesbury Road, Chippenham,

all for four years from the date on which this Scheme takes effect; and

Michael Edward Flintoff, of Morley House, Bath Road, Chippenham, and

Robert Andrew Raymond Syms, of Broadacres, Charlcutt, Calne,

both for two years from the said date;

As appointees of Chippenham Town Council–

David Philip Little, of 68 Marshfield Road, Chippenham, and

Michael John May, of 37 Rowden Hill, Chippenham,

both for four years from the said date; and

June Margaret Wood, of Monkton Cottage, Monkton Hill, Chippenham, and

Sally Christine Jefferies, of 44 The Butts, Chippenham,

both for two years from the said date;

As appointee of Chippenham Burgesses Guild–

Richard Searight, of 19 St. Mary Street, Chippenham,

for two years from the said date.

7. *Co-optative Trustees.* The Co-optative Trustees shall be persons who through residence, occupation or employment, or otherwise have special knowledge of the Parish of Chippenham.

8. *First Co-optative Trustees.* The first Co-optative Trustees shall be appointed by the Nominative Trustees at a special meeting to be held as soon as possible after the date on which this Scheme takes effect and shall hold office for the period of three years from the date of their appointment.

9. *Future Co-optative Trustees.* Every future Co-optative Trustee shall be appointed for a term of five years by a resolution of the Trustees passed at a special meeting of which not less than 21 days' notice has been given and may be so appointed not more than one month before the term of an existing Co-optative Trustee expires with effect from the date of expiry but so that the latter shall not vote on the matter.

10. *Declaration by Trustees.* No person shall be entitled to act as a Trustee whether on a first or on any subsequent entry into office until after signing in the minute book of the Trustees a declaration of acceptance and of willingness to act in the trusts of the Charity.

11. *Determination of trusteeship.* Any Trustee who is absent from all meetings of the Trustees during a period of one year or who is adjudged bankrupt or makes a composition or arrangement with his or her creditors or who is incapacitated from acting or who communicates in writing to the Trustees a wish to resign shall cease thereupon to be a Trustee.

12. *Vacancies.* Upon the occurrence of a vacancy the Trustees shall cause a note thereof to be entered in their minute book at their next meeting and in the case of a vacancy in the office of Nominative Trustee shall cause notice thereof to be given as soon as possible to the proper appointing body. Any competent Trustee may be re-appointed. The Trustees or their clerk shall request the secretary or clerk of the appointing body to notify them or him of the name of each person appointed.

MEETINGS AND PROCEEDINGS OF TRUSTEES

13. *Ordinary meetings.* The Trustees shall hold at least two ordinary meetings in each year.

14. *First meeting.* The first meeting of the Trustees shall be summoned by the said Douglas Joseph William Cleverly or, if he fails for three calendar months after the date on which this Scheme takes effect to summon a meeting, by any two of the Trustees.

15. *Chairman.* The Trustees at their first ordinary meeting in each year shall elect one of their number to be chairman of their meetings until the commencement of the first ordinary meeting in the following year. The chairman shall always be eligible for re-election. If at any meeting the chairman is not present within ten minutes after the time appointed for holding the same or there is no chairman the Trustees present shall choose one of their number to be chairman of the meeting.

16. *Special meeting.* A special meeting may be summoned at any time by the chairman or any two Trustees upon not less than four days' notice being given to the other Trustees of the matters to be discussed, but if the matters include an appointment of a Co-optative Trustee then upon not less than 21 days' notice being so given. A special meeting may be summoned to take place immediately after an ordinary meeting.

17. *Quorum.* There shall be a quorum when five Trustees are present at a meeting.

18. *Voting.* Every matter shall be determined by the majority of votes of the Trustees present and voting on the question. In case of equality of votes the chairman of the meeting shall have a casting vote whether he or she has or has not voted previously on the same question but no Trustee in any other circumstances shall give more than one vote.

19. *Minutes and accounts.* A minute book and books of account shall be provided and kept by the Trustees. Statements of account in relation to the Charity shall be prepared and transmitted to the Charity Commissioners in accordance with the provisions of the Charities Act 1960, except if and in so far as the Charity is excepted by order or regulations.

20. *General power to make regulations.* Within the limits prescribed by this Scheme the Trustees shall have full power from time to time to make regulations for the management of the Charity and for the conduct of their business including the summoning of meetings, the appointment of a clerk, the deposit of money at a proper bank and the custody of documents.

PROPERTY

21. *Grazing land.*—(1) The Trustees shall appropriate 50 acres or thereabouts of the land specified in the said schedule for use as follows, that is to say, each relevant occupier may, subject to sub-clause (3) below and to any bye-laws for the time being in force under sub-clause (4) below, graze on the land so appropriated six cows or heifers and two geldings or mares.

(2) For the purposes of this clause, a relevant occupier is the occupier for the time being of any residential premises situated on land upon which in 1604 there was a burgage dwelling of which an occupant was entitled to exercise grazing rights in accordance with the above-mentioned Letters Patent of 1604.

(3) The Trustees shall maintain a register of relevant occupiers, and a relevant occupier shall only be entitled to exercise the rights conferred by sub-clause (1) above if he has registered with the Trustees.

(4) The Trustees may make such bye-laws (if any) as they think fit for the management of the land appropriated as aforesaid in the interests of good husbandry.

(5) The Trustees may make such charge (if any) as they think fit for the right to graze and shall apply any income arising therefrom for the upkeep and maintenance of that land.

(6) The Trustees may at any time, if they obtain the approval of the Charity Commissioners, appropriate other land belonging to the Charity of suitable quality and location and of at least equal acreage in place of the land appropriated in accordance with the provisions of sub-clause (1) above.

22. *Management and letting of lands.* Subject as aforesaid the Trustees shall let and otherwise manage all the lands belonging to the Charity. The Trustees shall not without the sanction of the Charity Commissioners or a competent court create any tenancy wholly or partly in consideration of a fine or for a term ending more than 22 years after it is granted or for less than the best rent obtainable.

23. *Leases.* The Trustees shall provide that on the grant by them of any lease the lessee shall execute a counterpart thereof. Every lease shall contain covenants on the part of the lessee for the payment of rent, the proper cultivation of land let for agricultural or horticultural purposes and all other usual and proper covenants applicable to the property comprised therein and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.

24. *Repair and insurance.* The Trustees shall keep in repair and insure to the full value thereof against fire and other usual risks all the buildings of the Charity not required to be kept in repair and insured by the lessees or tenants thereof and shall suitably insure in respect of public liability and employer's liability.

25. *Sale.* Subject as aforesaid and to the authority of a further Order or Orders of the Charity Commissioners the Trustees may sell the whole or any part of the said land and may do and execute all proper acts and assurances for carrying any such sale into effect.

POWERS OF INVESTMENT

26. *Powers of investment.*—(1) Subject to the provisions hereinafter contained, property now or hereafter belonging to the Charity may be invested in or upon any of the following investments:

(a) any investments which are for the time being narrower-range or wider-range investments within the meaning of the Trustee Investments Act 1961**(a)**;

(b) any shares, stocks or other securities quoted on the International Stock Exchange or stock exchanges of New York, Tokyo or Frankfurt.

(2) The Trustees shall not invest property in any shares, stocks or other securities of any company or corporation (other than a company incorporated in the United Kingdom carrying on banking or insurance business in the United Kingdom) which by reason of not being fully paid up or otherwise carry a liability to contribute by way of calls in the event of a winding up or otherwise; but this provision shall not prevent the acquisition of newly issued securities which would otherwise be permitted hereby and of which the capital is by virtue of the terms of the issue thereof to be paid by instalments of which the last is to be payable not later than one year from the date of issue.

(3) The Trustees shall not invest property in any shares, stocks or other securities of any company or corporation unless at the time of investment such company shall have a paid up capital of at least £750,000 or its equivalent at the current rate of exchange and so that as regards any securities having no par value the paid-up capital of the company concerned shall be deemed to include the capital sum (other than capital surplus) appearing in the company's published accounts in respect of such securities.

27. *Investment adviser.* The Trustees shall employ and may remunerate an investment adviser (being either a company or firm of repute in the field of investment advice or an individual having not less than 15 years' experience of one or more of the following businesses in the City of London, that is to say, the businesses of stockbrokers, merchant bankers and finance houses) to keep the investments of the Charity under review and recommend any changes in those investments which the adviser considers desirable.

28. *Investment managers.*—(1) The Trustees may employ and remunerate as professional investment managers a company or firm of repute in the field of investment management (whether or not that company or firm or one of its members or employees is also employed as investment adviser under clause 27 above) and subject to the provisions of this clause may delegate to a company or firm so employed (hereinafter referred to as the managers) all or any of the Trustees' powers of investment for such period and upon such terms and conditions as the Trustees think fit.

(2) The Trustees shall, at the time of making any delegation under sub-clause (1) above and at such time or times thereafter as they think fit, give to the managers instructions as to investment policy.

(a) 1961 c.62.

(3) The terms and conditions of any delegation under sub-clause (1) above shall include the requirements that–

(a) any exercise by the managers of powers thereby delegated shall be subject to and in accordance with the Trustees' instructions as to investment policy;

(b) the managers shall inform the Trustees of each act done in exercise of powers so delegated as soon as reasonably possible;

(c) the Trustees may without notice revoke the delegation or alter any of its terms and conditions (other than the requirements included in pursuance of this sub-clause) notwithstanding that the period of the delegation has not expired.

(4) Any delegation under sub-clause (1) above shall be for a period not exceeding 12 months, but may from time to time be renewed for a further period not exceeding 12 months.

(5) The Trustees shall be liable for any loss to the Charity due to any act or default of the managers as if it had been the act or default of the Trustees, except that no Trustee shall be so liable in pursuance of this sub-clause for any loss arising without fraud, wrongdoing, neglect or wrongful omission on his part.

APPLICATION OF INCOME

29. *Expenses of management.* The Trustees shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

30. *Application of income.*—(1) Subject to the payments aforesaid the Trustees shall apply the income of the Charity in any or all of the following ways:–

(a) the relief of the aged, sick, disabled or poor inhabitants of the Parish of Chippenham;

(b) the provision or assistance in the provision, for the benefit of the inhabitants of the Parish of Chippenham and its neighbourhood or any section of those inhabitants, of facilities for recreation or other leisure-time occupation where that provision is charitable by virtue of section 1 of the Recreational Charities Act 1958**(a)** (facilities provided in the interests of social welfare);

(c) the advancement of education for the benefit of the inhabitants of the Parish of Chippenham;

(d) the promotion of any other charitable purpose (whether or not of a nature similar to any purpose specified in paragraphs (a), (b) and (c) above) for the benefit of the inhabitants of the parish of Chippenham:

Provided that the Trustees shall not apply income of the Charity directly in relief of rates, taxes or other public funds but may apply income in supplementing provision made out of public funds.

(2) In this clause, "the Parish of Chippenham" means that Parish as delimited at the date of this Scheme, but shall include any area that may at any time after that date be incorporated within that Parish.

31. *Appropriation of benefits.* The appropriation of the benefits of the Charity shall be made by the Trustees at meetings of their body and not separately by any individual Trustee or Trustees: Provided that the Trustees from time to time may appoint two or more members of their body to be a committee for dealing with any cases of emergency but all acts and proceedings of committees shall be reported in due course to the Trustees.

32. *Trustees' interests.*—(1) Subject to the provisions of this clause, no person shall be disqualified from being a Trustee by reason only of being for the time being entitled to grazing rights in accordance with the provisions of clause 21 above.

(2) No Trustee who is for the time being entitled to grazing rights in accordance with the provisions of clause 21 above shall attend any meeting of the Trustees at which matters concerning such rights are considered or vote on any resolution concerning such rights.

(3) No Trustee shall take or hold any interest in property belonging to the Charity (other than such grazing rights) otherwise than as a Trustee for the purposes thereof.

(4) No Trustee shall receive remuneration, or be interested in the supply of work or goods, at the cost of the Charity.

(a) 1958 c.17.

33. *Questions of construction.* Any question as to the construction of this Scheme may be referred to the Charity Commissioners for their opinion or advice in accordance with the provisions of section 24 of the Charities Act 1960.

SCHEDULE

Land containing 106 acres or thereabouts situate at Chippenham, in the County of Wiltshire, being the land known as Englands, Little Englands, Westmead, Little Blackwell, Hams and Mortimers Wood.

Sealed by Order of the Commissioners this 8th day of February 1990.

L.S.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a Scheme of the Charity Commissioners for the regulation of the Borough Lands Charity, Chippenham. The Charity is established for certain purposes in connection with the former Borough of Chippenham under Letters Patent of 1554 and subsequent dates.

The Scheme reconstitutes the Charity. A new body of Trustees is created, and provision is made for the application of the Charity's income for various charitable purposes for the benefit of the Parish of Chippenham. Those purposes include the relief of aged, sick, disabled and poor people, the promotion of recreational facilities and the advancement of education. The Scheme also extends the Charity's powers of investment, and contains provision corresponding to the previous provision for the occupiers of certain dwellings to exercise grazing rights for animals on land belonging to the Charity.