STATUTORY INSTRUMENTS

1973 No. 169

CHARITIES

The Charities (Hedon Haven) Order 1973

Laid before Parliament in draft

Made - - - 2*nd February* 1973

Coming into Operation 16*th February* 1973

Whereas the Charity Commissioners for England and Wales have, in pursuance of section 19(1) 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:

Now, therefore, I, the Right Honourable Robert Carr, one of Her Majesty's Principal Secretaries of State, in pursuance of section 19(2) of the Charities Act 1960, hereby make the following Order:—

1. This Order may be cited as the Charities (Hedon Haven) Order 1973 and shall come into operation 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.

Robert Carr,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
2nd February 1973.

(a) 1960 c. 58.

APPENDIX

SCHEME FOR THE ADMINISTRATION OF THE CHARITY KNOWN AS HEDON HAVEN.

Whereas the Charity known as Hedon Haven was constituted by:

(1) the Act of Parliament of the year 1774 intituled An Act for recovering, improving, and maintaining, the Navigation of the Haven of Hedon, in Holderness, in the East Riding of the County of York(a);

and is comprised in:

(2) the North Eastern Railway Act 1921(b); and

(3) the Variation of Navigation Rights (Hedon Haven) Order 1969(c):

And Whereas the Charity has made application 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 alter the provision made by the said Act of 1774 as affected by the said Act of 1921 and the said Order:

And Whereas pursuant to 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:

And Whereas in pursuance of sections 18(8) and 19(6) of the Charities Act 1960 the Charity Commissioners have given notice to each of the charity trustees not party or privy to the application aforesaid of their intention to settle this Scheme:

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 the property thereof specified in the schedule hereto and all other the property (if any) of the Charity shall be administered and managed subject to and in conformity with the provisions of this Scheme, in lieu of the provisions now regulating the Charity, under the title of the Hedon Haven Trust by the body of Trustees hereinafter constituted.

2. *Vesting.*—The land specified in the said schedule 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. *Investments and cash.*—(1) The investment specified in the said schedule shall constitute henceforth capital endowment of the Charity.

(2) Sums of cash at any time not needed for immediate working purposes shall be invested in the name of the said Official Custodian unless the Charity Commissioners otherwise direct.

TRUSTEES

4. *Trustees.*—Except at first as hereinafter provided the body of Trustees shall consist when complete of seven competent persons being

One Nominative Trustee and

Six Co-optative Trustees.

(a) 1774 c. 106. (b) 1921 c. xxxv. (c) S.I. 1970/1730.

5. *Nominative Trustee.*—The Nominative Trustee shall be appointed by the Borough Council of Hedon. Each appointment shall be made for a term of four years at a meeting convened and held according to the ordinary practice of the council. The chairman of the meeting shall cause the name of the person appointed to be notified forthwith to the Trustees or their clerk. The person appointed may be but need not be a member of the council.

6. *First Nominative Trustee.*—The first Nominative Trustee shall be appointed as soon as possible after the date of the coming into operation of this Scheme and his or her name shall be notified to Geoffrey Francis Lambert of Victoria Chambers, Bowlalley Lane, in the City of Kingston upon Hull on behalf of the Trustees.

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

8. *First Co-optative Trustees.*—The following persons shall be the first Co-optative Trustees and subject to the provisions hereinafter contained for determination of trusteeship shall be entitled to hold office for life:

Reverend Charles Edward Dann, of The Vicarage, Hedon, Clerk in Holy Orders,

James Henry Bayley, of Ryehill Manor, Thorngumbald, Retired Bank Manager,

Cyril Amos Farey, of Three Ways, Thorne Road, Hedon, Company Director,

Thomas Harrison, of Chatt House, Burton Pidsea, Company Director,

Herbert Bland Johnson, of Roslyn House, Sheriff Highway, Hedon, Farmer,

Sidney Thomas Johnson, of 1 Kings Place, Hedon, Retired Headmaster,

Brian Nordon, of Thorp's Farm, Halsham, Farmer,

George Robert Norrison, of Redstacks, Station Road, Burstwick, Retired Clerk of Works,

Walter Norrison, of Heron House, Hedon, Electrical Contractor,

James Dent Priestman, of Elstronwick House, Elstronwick, Company Director,

Arthur Robinson, of Magdalen, Hedon, Lieutenant Colonel in Her Majesty's Army (Retired List), Farmer, all in the East Riding of the County of York, and

George Beeforth Newton, of Avalon, Cravens Lane, Habrough, in the County of Lincoln, Company Director.

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 this Scheme.

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 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 council. Any competent Trustee may be re-appointed. There shall be no vacancy in the office of Co-optative Trustee until the number of Co-optative Trustees is reduced below six.

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 Geoffrey Francis Lambert or if he fails to summon a meeting for three calendar months from the date of the coming into operation of this Scheme 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 meetings.*—A special meeting may be summoned at any time by the chairman or any two Trustees upon 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.*—When the number of Trustees is twelve or thirteen there shall be a quorum at meetings of the Trustees when five Trustees are present; when the number of Trustees is nine, ten or eleven there shall be a quorum when four Trustees are present; and when the number of Trustees is seven or eight there shall be a quorum when three Trustees are present.

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 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 deposit of money at a proper bank and the custody of documents.

21. *Clerk.*—The Trustees may appoint as clerk one of their number without remuneration who shall be dismissible at their pleasure or some other fit person at such reasonable salary and upon such reasonable terms as to notice within the limits permitted by law and otherwise as they think fit.

Management of Land

22. *Purchase of land.*—Subject to any further Order or Orders of the Charity Commissioners the Trustees may expend a sufficient sum out of the property of the Charity in purchasing in trust for the Charity for use in conjunction with the existing land of the Charity that portion of the bed of Hedon Haven lying between Basin Bridge and Hedon Haven Clough, and may expend out of the said property a further sum in defraying the proper expenses of the Trustees in connexion with such purchase as aforesaid.

23. *Management and letting of lands.*—The Trustees shall let and otherwise manage the land belonging to the Charity, but 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.

24. *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 the land 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.

25. *Sale of land.*—Subject to the authority of any further Order or Orders of the Charity Commissioners the Trustees may sell the whole or any part of the land belonging to the Charity.

26. *Proceeds of sale.*—Unless the Charity Commissioners otherwise direct the clear proceeds of any such sale as aforesaid shall be invested in the name of the said Official Custodian in trust for the Charity.

Application of Income

27. *Expenses of management.*—The Trustees shall first defray out of the income of the Charity the cost of repair and insurance and all other charges and outgoings payable in respect of the property of the Charity and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

28. *Application of income.*—Subject to payment of the expenses aforesaid the Trustees shall apply the income of the Charity as they shall think fit for any charitable purposes for the general benefit of the inhabitants of the Borough of Hedon for which provision is not made out of rates, taxes or other public funds.

General Provisions

29. *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.

30. *Trustees not to be personally interested.*—No Trustee shall take or hold any interest in property belonging to the Charity otherwise than as a Trustee for the purposes thereof and no Trustee shall receive remuneration, or be interested in the supply of work or goods, at the cost of the Charity.

31. *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

The following land situate in the Borough of Hedon in the East Riding of the County of York:

Land known as the Haven Basin being a portion of the bed of Hedon Haven.

Land containing 0·33 acres or thereabouts situate at or near the Basin Bridge having a frontage on the east to Sheriff Highway.

3854·33 Income Shares standing in the name of the Official Custodian for Charities in the Charities Official Investment Fund.

£400 cash on deposit account at the branch of the Midland Bank Limited at 9, Market Place, Hedon, being accumulations of income.

£206·68 cash on current account at the said branch of the said bank.

This schedule is made up to the 1st February 1972.

Sealed by Order of the Charity Commissioners on 19th October 1972.

(L.S.)

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to a Scheme of the Charity Commissioners relating to certain trust property held by the Hedon Haven Commissioners, a body constituted by Act of Parliament of the year 1774 as a navigation authority for the administration of the former navigable waters of Hedon Haven. The Scheme constitutes a body of trustees to administer the property concerned, and provides that the income thereof shall be applied for charitable purposes for the general benefit of the inhabitants of the Borough of Hedon. The Scheme also confers on the trustees additional ancillary powers to enable them to administer effectively the property of the charity.

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