STATUTORY INSTRUMENTS

# 1978 No. 1155

## CHARITIES

## The Charities (The New College of Cobham) Order 1978

*Laid before Parliament in draft*

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| *Made* - - - | 3*rd August* 1978 |
| *Coming into Operation* | 17*th August* 1978 |

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:

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 (The New College of Cobham) Order 1978 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.

*Merlyn Rees,*
One of Her Majesty's Principal Secretaries of State.

Home Office.
3rd August 1978.

(a) 1960 c. 58.

## APPENDIX

SCHEME FOR THE ADMINISTRATION OF THE CHARITY CALLED THE NEW COLLEGE OF COBHAM, AT COBHAM, IN THE COUNTY OF KENT.

Whereas the Charity called The New College of Cobham, at Cobham, in the County of Kent, is constituted by:—

(1) The Act of Parliament of the year 1597 intituled An Act for establishment of the New Colledge of the poore at Cobham, in the County of Kent(a) as amended or affected by section 14 of the Rochester Bridge Act 1908(b);

(2) Ordinances of the Charity made by Sir John Leveson and William Lambard;

(3) A Scheme of the Charity Commissioners of the 4th May 1877;

(4) A Scheme of the Charity Commissioners of the 6th March 1956;

And Whereas application has been made to the Charity Commissioners by the body corporate called the Presidents of the New Colledge of Cobham, in the County of Kent, the Trustee of the Charity, for a Scheme for the administration of the Charity:

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 1597 as amended or affected as aforesaid:

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 the Charity Commissioners have taken into consideration all representations made to them in respect thereof and have decided to proceed with the said proposals without modification:

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. *Variation of trusts.*—The provisions of the above-mentioned Act of 1597 as amended or affected as aforesaid other than the provisions as hereinafter varied relating to the incorporation and constitution of the body corporate called the Presidents of the New Colledge of Cobham in the County of Kent and the provisions of the above-mentioned Ordinances and Schemes of the 4th May 1877 and the 6th March 1956 shall cease to have effect.

2. *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 by the above-mentioned body corporate (hereinafter referred to as the Corporation) the Trustee thereof.

3. *Investment of cash.*—Sums of cash at any time belonging to the Charity and not needed for immediate working purposes shall be invested in the name of the Corporation unless the Charity Commissioners otherwise direct.

4. *Definition.*—In this Scheme the expression "the area of benefit" shall mean the area consisting of the areas of the Ancient Parishes of Chalk, Cliffe, Cobham, Cooling, Cuxton, Gravesend, Halling, Higham, Hoo, St. Mary Hoo, Shorne and Strood.

### CORPORATION

5. *Corporation.*—(1) Notwithstanding the provisions of the said Act of 1597 relating to the constitution of the Corporation, the Corporation shall henceforth be called The Presidents and Trustees of The New College of Cobham, and the members

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(a) 1597 39 Eliz. 1, c. 4 (*Private*). (b) 8 Edw. 7, c. lvii.

thereof (hereinafter referred to as Members) shall consist when complete of five competent persons being

the two Wardens of Rochester Bridge, who as successors of the Wardens of the lands contributory to Rochester Bridge are the Presidents of the Charity by virtue of the provisions of section 14 of the Rochester Bridge Act 1908, and

three persons (hereinafter referred to as Trustees) who through residence, occupation or employment or otherwise have special knowledge of the area of benefit or of the Charity.

(2) Except at first as hereinafter provided the Trustees shall be appointed for a term of five years by a resolution of the Members 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 Trustee expires with effect from the date of expiry but so that the latter shall not vote on the matter.

6. *First Trustees.*—The following persons shall be the first Trustees and subject to the provisions hereinafter contained for determination of membership shall be entitled to hold office for the following periods respectively:

John Alan Sparrow, of 69 Ridgeway Avenue, Gravesend, in the County of Kent, Builders' Merchant,

for five years from the coming into effect of this Scheme;

Frank Gibson, of Green Hedges, Cobham, in the said county, Company Director,

for three years from the coming into effect of this Scheme;

George William Gander, of 34 The Street, Cobham, Esquire,

for two years from the coming into effect of this Scheme.

7. *Determination of membership.*—Any Trustee who is absent from all meetings of the Members 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 Members a wish to resign shall cease thereupon to be a Member.

8. *Vacancies.*—Upon the occurrence of a vacancy the Members shall cause a note thereof to be entered in their minute book at their next meeting. Any competent Trustee may be re-appointed.

9. *Ordinary meetings.*—The Members shall hold at least two ordinary meetings in each year.

10. *Chairman and vice-chairman.*—The persons who are the Senior and Junior Wardens for the time being of Rochester Bridge shall be the chairman and vice-chairman respectively of all meetings of the Members.

11. *Special meetings.*—A special meeting may be summoned at any time by the chairman or any two Members upon not less than four days' notice being given to the other Members of the matters to be discussed, but if the matters include an appointment of a 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.

12. *Quorum.*—There shall be a quorum when three Members are present at a meeting.

13. *Voting.*—Every matter shall be determined by the majority of votes of the Members 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 Member in any other circumstances shall give more than one vote.

14. *General power to make regulations.*—Within the limits prescribed by this Scheme the Members shall have full power from time to time in the name of the Corporation to make regulations for the management of the Charity and for the conduct of their

business including the summoning of meetings, the keeping of minute books and books of account, the custody of and the procedure for affixing the common seal of the Corporation, the deposit of money at a proper bank and the custody of documents.

15. *Clerk.*—The Members may appoint as clerk of the Corporation 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 LANDS

16. *Management and letting of lands.*—The Corporation shall let and otherwise manage all the lands belonging to the Charity not required to be retained or occupied for the purposes thereof, 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.

17. *Leases.*—The Corporation shall provide that on the grant by it 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 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.

18.—*Repair and insurance.*—The Corporation 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.

## APPLICATION OF INCOME

19. *Expenses of management.*—The Corporation shall first defray out of the income of the Charity the cost of repairs 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.

20. *Cyclical Maintenance Fund.*—(1) The Corporation may establish and maintain a reserve fund, to be entitled Cyclical Maintenance Fund, for the purpose of providing for those items of ordinary maintenance and repair of the almshouses called the College and other property belonging to the Charity which recur at infrequent intervals.

(2) The fund may be maintained out of the income of the Charity by setting aside a yearly sum of £1,080 or such other sum as the Charity Commissioners from time to time approve and may be invested in the name of the Corporation in trust for the Charity.

21. *Extraordinary Repair Fund.*—Subject to any further Order or Orders of the Charity Commissioners—

(1) The Corporation shall establish and maintain a reserve fund, to be entitled Extraordinary Repair Fund, for the purpose of providing for the extraordinary repair, improvement or rebuilding of the College and other property belonging to the Charity.

(2) The fund shall be established and maintained out of the income of the Charity either by transfer to the fund of a yearly sum of not less than £360 or in such other manner as the Charity Commissioners from time to time approve or direct.

(3) The fund and the income therefrom shall be invested in the name of the Official Custodian for Charities.

22. *Benefit of Pensioners.*—Subject to the payments aforesaid the Corporation shall apply the income of the Charity for the benefit of the Pensioners of the Charity or any of them in such manner as the Corporation thinks fit from time to time.

## COLLEGE AND PENSIONERS

23. *College.*—The College and the property occupied therewith shall be appropriated and used for the residence of Pensioners in conformity with the provisions of this Scheme.

24. *Saving for existing Pensioners.*—Appointments of Pensioners under this Scheme shall be made without prejudice to the interests of the existing Pensioners.

25. *Qualifications of Pensioners.*—(1) The Pensioners shall be poor persons of good character who (except in special cases to be approved by the Charity Commissioners) are members of the Church of England and have resided in the area of benefit for not less than three years next preceding the time of appointment.

(2) In filling a vacancy among the Pensioners the following order of preference shall be observed:

(*a*) aged persons who have retired from work;

(*b*) persons who are unable to support themselves owing to physical handicap caused by sickness or other misfortune not of their own fault;

(*c*) persons who have become poor through no fault of their own.

If the claims of any two persons are equal a person who has resided longest in the area of benefit is to be preferred.

(3) The Corporation may permit the spouse of any Pensioner to reside with him or her.

(4) Upon the death or setting aside of the appointment of one of a married couple of Pensioners the Corporation may permit the other of them to remain a Pensioner of the Charity and to continue in occupation of the room or rooms theretofore occupied by the married couple or to occupy such other room or rooms as the Corporation allots, or the Corporation may set aside his or her appointment.

26. *Contributions.*—The Corporation may make it a condition of appointing or permitting a person to be or remain a Pensioner that he or she shall from resources available to him or her—

(1) contribute a weekly sum towards the cost of maintaining the College and essential services therein but so that the amount of the weekly sum shall not—

(*a*) be such as to cause hardship to him or her;

(*b*) be more than the amount approved from time to time by the Charity Commissioners;

(2) contribute towards the cost of lighting and heating the College and providing hot water therein.

27. *Notice of vacancy.*—No appointment of a Pensioner shall be made by the Corporation until a sufficient notice of an existing vacancy specifying the qualifications required from candidates has been published in the area of benefit by advertisement or otherwise so as to give due publicity to the intended appointment but it shall not be necessary to publish a notice if a vacancy occurs within twelve calendar months after the last notice of a vacancy has been published.

28. *Applications for appointment.*—All applications for appointment shall be made to the Corporation or its clerk in such manner as the Corporation directs. Before appointing any applicant to be a Pensioner the Corporation shall require him or her to attend in person unless he or she is physically disabled or the Corporation is of opinion that special circumstances render this unnecessary. An applicant may be required to supply evidence of his or her qualification for appointment.

29. *Selection of Pensioners.*—Pensioners shall be selected only after full investigation of the suitability and circumstances of the applicants.

30. *Appointments of Pensioners.*—Every appointment of a Pensioner shall be made by the Corporation at a special meeting of the Members.

31. *Records.*—The Corporation shall provide and keep a book in which shall be entered the name, age and description of every person appointed to be a Pensioner, the date of every appointment and the date of occasion of every vacancy. The Corporation shall also keep a register of all applications for appointment.

32. *Rooms not to be let.*—No Pensioner shall be permitted to let or part with the possession of the room or rooms allotted to him or her or except with the special permission of the Members to suffer any person to share the occupation of the same or of any part thereof.

33. *Warden and assistant warden.*—The Corporation may appoint a warden and an assistant warden to perform such duties as may be necessary for the superintendence and care of the Pensioners at such reasonable salary and upon such reasonable terms as to notice within the limits permitted by law and otherwise as it thinks fit and may allot to the warden and the assistant warden respectively a room or rooms in the College as a residence for them or either of them while holding office.

34. *Employment of officers.*—The Corporation from time to time may employ such persons to fill such offices and to perform such duties as it considers necessary for the proper administration and management of the Charity at such reasonable salaries and upon such reasonable terms as to notice within the limits permitted by law and otherwise as it thinks fit.

35. *Setting aside appointments.*—(1) The Corporation may set aside the appointment as a Pensioner of any Pensioner who in the opinion of the Corporation—

(*a*) persistently or without reasonable excuse either disregards the regulations for the Pensioners or disturbs the quiet occupation of the College or otherwise behaves vexatiously or offensively; or

(*b*) no longer has the required qualifications; or

(*c*) has been appointed without having the required qualifications; or

(*d*) is suffering from mental or other disease or infirmity rendering him or her unsuited to remain a Pensioner.

(2) Upon setting aside the appointment of a Pensioner the Corporation shall require and take possession of the room or rooms occupied by him or her.

(3) The Corporation upon recovery of a Pensioner whose appointment has been set aside on account of mental or other disease or infirmity may re-appoint him or her without giving previous notice of the vacancy and without regard to the qualification as to residence.

36. *Regulations.*—The Corporation may prescribe from time to time such reasonable regulations for the management of the College as are not at variance or inconsistent with the provisions of this Scheme, and such regulations may provide:

(1) that any Pensioner who desires to be absent from the College for more than 28 days in any one year shall obtain the prior consent of the Corporation; and

(2) for the notification by Pensioners of any intended temporary absence from the College.

## GENERAL PROVISIONS

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

38. *Charity not to relieve public funds.*—The Corporation shall not apply income of the Charity directly in relief of rates, taxes or other public funds.

39. *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 adjoining land situate in the Parish of Cobham in the County of Kent containing in the whole 4 acres 1 rood 32 perches or thereabouts:

1. Land containing 38 perches with the College buildings thereon.
2. The College gardens containing 3 acres 2 roods 20 perches situate to the south and south-east of the College buildings.
3. Land containing 2 roods 14 perches situate to the south of the College buildings with a road leading to the south front of the College.

Land containing 31 acres 1 rood 26 perches situate at Shorne in the said county and known as Great Dover Castle Field now let to Messrs. E. J. Smith & Sons at the yearly rent of £360.

Wayleave of 25p in respect of telephone poles payable by The Post Office.

Wayleave of 5p in respect of a pole payable by the South Eastern Electricity Board.

9,797 Income Shares in the Charities Official Investment Fund.

£159·01 cash on current account at the branch of the National Westminster Bank Limited at 40 High Street, Rochester.

This Schedule is made up to the 19th May 1978.

Sealed by Order of the Charity Commissioners this sixth day of June 1978.

(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 New College of Cobham in Kent, an almshouse charity administered by a body corporate incorporated by Act of Parliament of the year 1597.

The Scheme provides for the body corporate to be renamed and for its members to be increased from two to five. It also makes provision for the administration of the Charity and gives the body corporate power to charge the Pensioners such sum as the Charity Commissioners approve by way of contribution to the cost of maintaining the almshouses.

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