STATUTORY INSTRUMENTS

1979 No. 496 (S. 49)

EDUCATION, SCOTLAND

Charles and Barbara Tyre Trust Scheme 1979

Made - - - - 23*rd April* 1979

Coming into Operation 23*rd April* 1979

ARRANGEMENT OF PARAGRAPHS

PART I

CITATION AND INTERPRETATION

Paragraph
1. Citation
2. Interpretation

PART II

CONSTITUTION OF THE GOVERNING BODY

3. Constitution of the governing body
4. Composition of the governing body
5. Appointment of governors
6. Periods of office
7. Demission of office
8. Vacancies
9. Validity of proceedings of governing body
10. Execution of deeds
11. Transitional provisions

PART III

ADMINISTRATIVE ARRANGEMENTS

12. Chairman
13. Committees
14. Administrative staff
15. Meetings of governing body
16. Quorum of governing body
17. Minute book
18. Rules and standing orders

PART IV

FINANCIAL ARRANGEMENTS

19. Vesting of trust
20. Transfer of cash balances, books, deeds and papers
21. Additional donations
22. Powers of investment

PART V

TRUST PURPOSES

23. Application of income
24. Purposes of the trust
25. Conditions of award of grant
26. Tenure of award
27. Limitation of value of awards
28. Publicising of trust

PART VI

MISCELLANEOUS AND GENERAL PROVISIONS

29. Copies of scheme

SCHEDULE—Particulars of the Endowment to which this scheme relates.

In exercise of the powers conferred on him by sections 118(1) and 125(2) of the Education (Scotland) Act 1962(a) and all other powers enabling him in that behalf and after—

(*a*) preparing a draft scheme for the future management of the endowment known as the Charles and Barbara Tyre Trust,

(*b*) carrying out the procedure specified in section 125(1) of the said Act, and

(*c*) no objections or proposed amendments to the draft scheme having been received by him,

the Secretary of State hereby makes the following scheme:—

PART I

CITATION AND INTERPRETATION

Citation

1. This Scheme may be cited as the Charles and Barbara Tyre Trust Scheme 1979.

Interpretation

2.—(1) In this Scheme unless the context otherwise requires:—

"Governing Body" means the Governors of the Charles and Barbara Tyre Trust, as constituted in terms of paragraph 3 of this Scheme;

"Trust" means the Charles and Barbara Tyre Trust;

"District Council" means the Argyll and Bute District Council;

(a) 1962 c. 47; section 125(1) was substituted by the Education (Scotland) Act 1969 (c. 49), section 19.

(2) References in this scheme to a paragraph or schedule shall, except where the context otherwise requires, be construed as references to a paragraph or schedule to this scheme, as the case may be.

PART II

CONSTITUTION OF THE GOVERNING BODY

Constitution of the governing body

3. For the purpose of carrying this scheme into effect a governing body shall be constituted under the name of "The Governors of the Charles and Barbara Tyre Trust" and under that name shall be a body corporate with perpetual succession, a common seal, and all rights, privileges and powers of a body corporate.

Composition of the governing body

4. The governing body shall consist of 10 governors, being persons whose experience will be of value in the exercise of the functions laid down by this scheme. Five governors shall be appointed by the District Council and 5 by Strathclyde Regional Council, or by the appropriate committee of each Council to which the power to appoint governors may be delegated.

Appointment of governors

5. The first appointments to the office of governor shall be made by the respective appointing bodies as soon as possible after 23rd April 1979 and all appointments to the governing body shall be made either at ordinary meetings of the above bodies or their committees to which the power of appointment has been delegated or at meetings summoned for the purpose which shall be convened and conducted according to the ordinary rules and practices of those bodies or their committees.

Periods of office

6.—(1) Subject to the provisions of sub-paragraph (2) below and paragraph 7, each governor shall hold office for 3 years, the term of office of the original appointees being deemed to run from the date of the first meeting of the governing body. A governor shall be eligible for re-appointment on the expiry of his period of office provided that governors so re-appointed shall serve for a maximum of 2 successive terms and shall thereafter vacate office for a period of 1 year before becoming eligible for further re-appointment.

(2) Subject to the provisions of paragraph 7, of the governors first appointed under this scheme, 2 of the governors appointed by the District Council and 2 of the governors appointed by Strathclyde Regional Council shall hold office for a period of 2 years.

Demission of office

7. A governor shall be deemed to have vacated office as a member of the governing body and the governing body shall declare his place vacant in any of the following circumstances:—

(*a*) where he intimates in writing to the governing body his resignation as a governor;

(*b*) where he has had his estate sequestrated or has made a trust deed for his creditors;

(*c*) where he has become incapacitated to act as a governor; or

(*d*) where he has for the space of one year without reasonable cause failed to attend any meeting of the governing body.

Vacancies

8.—(1) Every vacancy, whether occasioned by the expiry of a term of office as a governor or by resignation or any other cause shall be entered in the minute book.

(2) Each vacancy shall be intimated by the clerk of the governing body to the body entitled under paragraph 4 to appoint a successor. In the case of a vacancy caused by the expiry of the normal term of office, the intimation shall be made not less than one month before the date of the vacancy and in any other case, as soon as may be after its occurrence. Within 3 months of the intimation a successor shall be appointed by the body entitled to do so.

(3) If the body entitled to appoint a governor fails to do so within the 3 month period, it shall be in the power of the governing body to appoint a successor and any appointment under this sub-paragraph shall be deemed to be an appointment by the body entitled to make the appointment.

Validity of proceedings of governing body

9. The validity of the proceedings of the governing body shall not be affected by any vacancy among or by any defect in the appointment of any of the governors.

Execution of deeds

10. All deeds and other writings, sealed with the corporate seal and signed by one of the governors and by a duly authorised officer of the governing body appointed for the purpose shall be held to be validly executed on behalf of the governing body.

Transitional provisions

11. As soon as can be conveniently arranged after 23rd April 1979 the Director of Administration of the District Council shall convene the first meeting of the governing body, notice of which shall be given to each member of the governing body or, if the names of such members have not been intimated to the Director of Administration, to the bodies entitled to appoint governors.

PART III

ADMINISTRATIVE ARRANGEMENTS

Chairman

12. The governing body shall at their first meeting appoint a chairman from their own number. A chairman shall hold office for 3 years or until his own period of office as a governor expires, whichever is the lesser, and shall be eligible for re-appointment. In the absence of the chairman, the governing body shall appoint one of their number to preside at any meeting.

Committees

13. The governing body may appoint such committees of their own number as they think fit, appoint the convener of each committee, confer on each committee all such powers and give all such instructions as may appear expedient and fix the quorum of each committee.

Administrative staff

14. The governing body shall appoint a clerk and such other officers as they consider necessary at such reasonable salaries and under such conditions of service as they may determine. Such staff shall hold office at the pleasure of the governing body. Any officer of the governing body whose duties include intromissions with funds vested in the governing body shall find such caution as the governing body may require for his intromissions. No governor acting as clerk or other officer shall be entitled to any remuneration.

Meetings of governing body

15.—(1) The governing body shall hold at least one ordinary meeting in each year at such place and time as they may determine.

(2) The chairman may at any time convene a special meeting of the governing body.

(3) Any 3 of the governors may for any cause which seems to them sufficient require a special meeting to be convened by giving notice in writing to the clerk to the governing body specifying the business to be transacted.

(4) At least one week's notice of meetings shall be given and such notice, which shall be in writing, shall specify the date, time and place of the meeting and the business to be transacted.

(5) Notwithstanding the provisions of sub-paragraph (4) above, the chairman may convene a meeting on less than one week's notice. He may also authorise any governor to convene a meeting on his behalf on less than one week's notice. No resolution or motion carried at such a meeting shall be valid however unless it is voted for by a majority of all the governors then in office or unless it is confirmed at any subsequent meeting for which the usual notice has been given.

Quorum of governing body

16.—(1) At all meetings of the governing body 4 governors shall be a quorum and, subject to the proviso in paragraph 15(5), all questions shall be determined by a majority of the governors present. In any case where there is an equality of votes, the chairman of any meeting shall have a second or casting vote in addition to a deliberative vote.

(2) If at any time appointed for a meeting or if before the business of any meeting has been completed, the number of governors present is less than 4, the governors present shall adjourn the meeting to such day or time as they may determine and the meeting may be re-convened on less than 1 week's notice being given.

Minute book

17. A minute book shall be kept by the governing body and minutes of the proceedings of the governing body shall be entered therein, including resolutions authorising the execution of all writings or deeds on behalf of the governing body.

Rules and standing orders

18. Subject to the provisions of this scheme, the governing body may make such rules and standing orders for the regulation of their proceedings, the keeping of records, the execution of documents and such other matters connected with their business as they think fit.

PART IV

Financial Arrangements

Vesting of trust

19. From and after 23rd April 1979 the endowment known as the Charles and Barbara Tyre Trust and described in the schedule to this scheme shall be transferred to and vested in the governing body without the necessity of any new instrument or conveyance, the endowment to be held, administered and applied exclusively by the governing body in accordance with the provisions of this scheme.

Transfer of cash balances, books, deeds and papers

20.—(1) As soon after 23rd April 1979 as can conveniently be arranged, the District Council shall make over to the governing body all cash balances, books, deeds and papers which relate wholly or mainly to the trust transferred to the governing body by paragraph 19 and to which they have right as the District Council.

(2) The governing body shall discharge such lawful debts of the trust transferred to and vested in them by paragraph 19 as remain unpaid:

Provided that the liability of the governing body shall be limited to the amount which can be realised from the assets of the endowment and the government body shall, after satisfactory audit of the accounts of the said trust, grant to the District Council a discharge of their intromissions with the funds of the trust.

Additional donations

21. The governing body may accept donations, legacies, annuities, subscriptions and other gifts (hereinafter referred to as 'additional donations') for the purposes of this scheme, or for purposes connected therewith and such additional donations shall be applied in accordance with the directions of the respective testators or donors. In the absence of any specific directions relating thereto, the governing body shall apply any additional donations to the capital or income of the trust or to both capital and income in such proportions as they think fit.

Powers of investment

22. In regard to the investment of the trust funds, or of additional donations received under paragraph 21, the governing body shall have all powers competent to them under the common law of Scotland as a body corporate.

PART V

TRUST PURPOSES

Application of income

23.—(1) The governing body, after paying all necessary expenses of management and other outgoings affecting the trust, shall in each financial year apply as nearly as possible the whole of the free income of the trust, including any unexpended balance of income carried forward from the previous financial year, in fulfilment of the purposes laid down in paragraph 24.

(2) If, notwithstanding the foregoing provisions of this paragraph, there is an unexpended balance of the free income of the trust at the end of any financial year, the governing body shall carry the said balance or part thereof forward to the following financial year or shall add the said balance or part thereof to the capital of the trust.

Purposes of the trust

24. The governing body may in each financial year award grants of such annual value as they think fit to assist applicants of either sex:

(*a*) to obtain qualifications additional to a degree, associateship, diploma or certificate of a University or other institute of further or higher education already obtained;

(*b*) to train in a trade or profession other than that in which they are at present trained;

(*c*) to undertake a course provided by the Open University for which they have registered or are about to register;

(*d*) to undertake training in leadership and initiative;

(*e*) to benefit from recreative holidays in cases of physical or mental disability, whether permanent or temporary.

Conditions of award of grants

25. When awarding grants under paragraph 24, the governing body shall—

(*a*) satisfy themselves that the applicant is a Protestant, has completed his school education but is not at the time of the award more than 25 years of age, and is ordinarily resident within the area of the former County of Argyll;

(*b*) associate the names of Charles and Barbara Tyre with each award made under this scheme.

Tenure of award

26.—(1) Each award shall be tenable for such period as the governing body thinks fit and it shall be in the power of the governing body to extend the period originally determined in any case in which they consider such extension to be justified.

(2) The governing body may require the holder of any grant under this scheme to satisfy them that he is making sufficient progress in his course of study. If in the opinion of the governing body any such holder is guilty of serious misconduct or is failing to make sufficient progress the governing body may withdraw the grant or suspend the holder from its benefits, and the decision of the governing body shall be final.

Limitation of value of awards

27. The amount of any award made under this scheme to a person who holds or is to hold a scholarship or other allowance which is paid out of monies provided by Parliament or out of any fund aided by grants from Parliament, shall not be such as may cause the said scholarship or other allowance to be reduced.

Publicising of trust

28. The governing body shall take appropriate steps, including the insertion each year of an advertisement in a local newspaper circulating in the area of benefit, to make information about the purposes of the trust available to the public.

PART VI

Miscellaneous and General Provisions

Copies of scheme

29. The governing body shall maintain a supply of printed copies of this scheme, shall cause a copy to be kept available for inspection by any member or officer of the governing body and copies shall be available for sale to the public at a reasonable price.

Given under the seal of the Secretary of State for Scotland.

W. A. P. Weatherton,
Assistant Secretary.

Scottish Education Department,
New St. Andrew's House,
Edinburgh.

23rd April 1979.

SCHEDULE

PARTICULARS OF THE ENDOWMENT TO WHICH THIS SCHEME RELATES

Name of Endowment	Founder	Governing Instrument
Charles and Barbara Tyre Trust	Charles Tyre, 'Bhairab', Alcombe, Minehead, Somerset	Will of Charles Tyre dated 9th September 1929 and Codicils thereto dated 6th February 1930, 17th November 1931, and 15th July 1936 all registered in the Principal Probate Registry of His Majesty's High Court of Justice on 20th March 1937.