STATUTORY INSTRUMENTS

1978 No. 776 (S. 65)

EDUCATION, SCOTLAND

Dundee Trust for the Education of Deaf Children Scheme 1978

Made - - - - 25*th May* 1978

Coming into Operation 25*th May* 1978

ARRANGEMENT OF PARAGRAPHS

PART I

CITATION AND COMMENCEMENT

Paragraph

1. Citation.
2. Interpretation.

PART II

THE GOVERNING BODY

3. Reconstitution of governing body.
4. Change in composition of governing body.
5. Life trustees.
6. Nomination of trustees.
7. Co-option of trustees.
8. Terms of office of trustees.
9. Demission of office.
10. Vacancies.
11. Re-election.
12. Validity of proceedings.
13. Transitional arrangements.

PART III

ADMINISTRATIVE ARRANGEMENTS

14. Chairman.
15. Administrative staff.
16. Meetings of governing body.
17. Quorum of governing body.
18. Execution of deeds.
19. Minute book.
20. Security measures.
21. Rules and standing orders.

PART IV
TRANSFER AND VESTING OF ENDOWMENT

Paragraph
22. Transfer and vesting of endowment.
23. Transfer of cash balances, books, deeds and papers.

PART V
FINANCIAL ARRANGEMENTS
24. Disposal of property.
25. Constitution of fund.
26. Annual payments into Trust.
27. Additional donations.
28. Powers of investment.
29. Application of income.

PART VI
TRUST PURPOSES
30. Payment of grants.

PART VII
MISCELLANEOUS AND GENERAL PROVISIONS
31. Names of founders.
32. Copies of scheme.
33. Revocation.

SCHEDULE—PARTICULARS OF ENDOWMENTS TO WHICH THIS SCHEME RELATES

In exercise of the powers conferred on him by section 118(1) of the Education (Scotland) Act 1962(a) and section 125(2) of the said Act as substituted by section 19 of the Education (Scotland) Act 1969(b) 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 Dundee Home for Deaf Children Scheme 1965,

(*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 COMMENCEMENT

Citation

1. This scheme may be cited as the Dundee Trust for the Education of Deaf Children Scheme 1978.

(a) 1962 c. 47. (b) 1969 c. 49

Interpretation

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

"beneficiaries" means deaf and partially deaf children and young persons;

"director" means a Director of the Dundee Home for Deaf Children;

"governing body" means the body reconstituted under paragraph 3(1);

"Scheme of 1965" means the Dundee Home for Deaf Children Scheme 1965 Order in Council 1966;

"Trust" means the Dundee Trust for the Education of Deaf Children;

"trustee" means a Trustee of the Dundee Trust for the Education of Deaf Children.

(2) The Interpretation Act 1889(a) shall apply for the interpretation of this scheme as it applies for the interpretation of an Act of Parliament.

(3) References in this scheme to any enactment or scheme shall, except where the context otherwise requires, be construed as references to that enactment or scheme as amended by or under any other enactment or scheme or as contained in any other enactment or scheme substituted for that enactment or scheme.

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

PART II

THE GOVERNING BODY

Reconstitution of governing body

3.—(1) For the purpose of carrying this scheme into effect the governing body constituted and incorporated under the Scheme of 1965 with the name of "The Directors of the Dundee Home for Deaf Children" shall be and is hereby reconstituted under the name of "The Trustees of the Dundee Trust for the Education of Deaf Children" with perpetual succession and a common seal, and with all rights, powers and privileges of a body corporate.

(2) The governing body reconstituted under the last foregoing sub-paragraph shall if so requested grant the governing body in office on 25th May 1978 a discharge of their intromissions.

Change in composition of governing body

4.—(1) The composition of the governing body shall be and is hereby changed, and it shall consist of the following 6 persons, that is to say:—

(*a*) those Directors of the Dundee Home for Deaf Children, appointed under section 5(1) of the Scheme of 1965 to represent subscribers to the Home, in post on 25th May 1978 who shall be life trustees;

(*b*) one ex officio trustee who shall be the head teacher of the Dundee School for the Deaf;

(*c*) one person to be nominated by the National Deaf Children's Society from their own number; and

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(a) 1889 c. 63.

(*d*) one person to be nominated by the Association of Principals of Colleges (Scottish Branch) from their own number.

(2) Notwithstanding the provisions of the last foregoing sub-paragraph it shall be in the power of the governing body to co-opt up to 2 additional trustees who shall be co-opted by the trustees from among persons of experience which in the opinion of the governing body will be of value to them in the exercise of their functions under this scheme.

Life trustees

5. The life trustees shall, subject to the provisions of paragraph 9, hold office for the periods of their respective lives and on the occurrence of each vacancy among the life trustees the governing body shall assume a trustee from among persons of experience which in the opinion of the governing body will be of value to them in the exercise of their functions under this scheme.

Nomination of trustees

6. The nomination of trustees shall be made either at ordinary meetings of the respective nominating bodies or at meetings summoned for the purpose which shall be convened and conducted according to the ordinary rules and practice of the said bodies.

Co-option of trustees

7. In the event of the governing body exercising the power conferred upon them by paragraph 4(2), the co-option of persons to be trustees shall be made by the governing body at meetings convened and conducted in accordance with the provisions of this scheme.

Terms of office of trustees

8. Subject to the provisions of paragraph 9, the nominated, the assumed and any co-opted trustees shall hold office for a period of 3 years:

Provided that a trustee nominated, assumed or co-opted to succeed a trustee who has died or otherwise vacated office before the end of his term of office shall hold office only during the unexpired portion of the said trustee's term of office.

Demission of office

9. A trustee 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 trustee;

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

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

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

(*e*) in the case of a trustee who is in terms of this scheme nominated from the members of a particular body when he ceases to be a member of such body.

Vacancies

10.—(1) Every vacancy, whether occasioned by the expiry of a normal term of office as a trustee, or by resignation or for any other cause, shall be entered in the minutes.

(2) Each vacancy among the nominated trustees shall be intimated by the governing body to the nominating body. In the case of a vacancy caused by the expiry of a normal term of office intimation shall be made not less than one month before the date on which the vacancy will occur and in other cases as soon as may be thereafter. The nominating body shall nominate a successor within 6 months of the occurrence of the vacancy:

Provided that if the nominating body fails to comply with the foregoing provision, the governing body may appoint a successor and any appointment under this proviso shall be deemed to be a nomination of the nominating body.

Re-election

11. On the expiry of his term of office a nominated, an assumed or any co-opted trustee shall, subject to the provisions of this scheme, be eligible for a further term.

Validity of proceedings

12. No failure or delay or defect in the appointment, nomination, assumption or co-option of any trustee and no vacancy in the office of any trustee shall prevent the governing body from acting in the execution of this scheme; nor shall any act or proceeding of the governing body be invalidated or be illegal by reason of any such failure, delay, defect or vacancy:

Provided that the number of trustees validly appointed, nominated or assumed and in office at the time of the said act or proceeding was not less than 4.

Transitional arrangements

13.—(1) The Directors of the Dundee Home for Deaf Children in office at 25th May 1978 shall remain in office and shall continue to administer the endowment until the first meeting of the governing body held under this scheme.

(2) The nominated director in office at 25th May 1978 shall, subject to paragraph 9, remain in office as a trustee until the expiry of the period for which he was elected.

(3) The first nomination of a trustee by the Association of Principals of Colleges (Scottish Branch) shall take place within 2 months of 25th May 1978 or as soon thereafter as can conveniently be arranged and the name of the person nominated shall be intimated to the secretaries of the Dundee Home for Deaf Children.

(4) Within 4 months of 25th May 1978 the secretaries of the Dundee Home for Deaf Children shall convene the first meeting of the governing

body which shall be presided over by the chairman of the Dundee Home for Deaf Children until the appointment of a chairman has been made under paragraph 14.

PART III

ADMINISTRATIVE ARRANGEMENTS

Chairman

14. The governing body shall appoint a chairman from their own number at an ordinary meeting held at such period of the year as the governing body may determine. In the absence of the chairman at any meeting the governing body shall appoint one of their own number to preside at the meeting. The chairman shall hold office for 3 years or until his own period of office as a trustee expires, whichever is the lesser, and he shall be eligible for re-appointment.

Administrative staff

15. The governing body shall appoint a secretary and may appoint such other officers as they consider necessary at such reasonable salaries and under such conditions of service as they may determine. Any officer of the governing body whose duties include intromissions with Trust funds shall be required by the governing body to find such caution as they think fit. No trustee acting as secretary or other officer shall be entitled to any remuneration.

Meetings of governing body

16.—(1) The governing body shall hold at least 2 ordinary meetings in the 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 2 of the trustees may, for any cause which seems to them sufficient, require a special meeting to be convened by giving notice in writing to the secretary of the governing body specifying the business to be transacted.

(4) At least 14 days' 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:

Provided that the chairman or any trustee duly authorised by the chairman may convene a meeting on less than 14 days' notice but no resolution or motion carried at that meeting shall be valid unless not less than two-thirds of the trustees present have voted in favour of it or unless it is confirmed at any subsequent meeting held after an interval of not less than 14 days on the usual notice being given.

Quorum of governing body

17.—(1) At all meetings of the governing body 3 trustees shall be a quorum and subject to the proviso to paragraph 16(4), all questions shall be determined by a majority of the trustees present. The chairman of any meeting shall, in any case where there is an equality of votes, 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 trustees present is less than 3 the

trustees present shall adjourn the meeting to such day or time as they may determine and the proviso to paragraph 16(4) shall apply to any adjourned meeting.

Execution of deeds

18. All deeds and other writings sealed with the corporate seal and signed by one of the trustees and the secretary or other duly authorised officer of the governing body appointed for the purpose shall be held to be validly executed on behalf of the governing body.

Minute book

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

Security measures

20. The governing body may make such arrangements as they consider adequate for the safe custody of all deeds and other documents belonging to them, for the banking of money and for the signing of cheques.

Rules and standing orders

21. 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 the business of the governing body as they think fit.

PART IV

TRANSFER AND VESTING OF ENDOWMENT

Transfer and vesting of endowment

22. From and after 25th May 1978 the endowment named and described at serial No. 1 in the schedule shall be and is hereby transferred to and vested in the governing body without the necessity of any new instrument or conveyance. The said endowment shall 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

23.—(1) As soon after 25th May 1978 as can conveniently be arranged the Directors of the Dundee Home for Deaf Children shall make over to the governing body all cash balances, books, deeds and papers which relate to the endowment transferred to the governing body by paragraph 22 and to which they have right as Directors of the Dundee Home for Deaf Children.

(2) The governing body shall discharge such lawful debts of the endowment transferred to and vested in them by paragraph 22 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 governing body shall, after satisfactory audit of the accounts of the said endowment, grant to the Directors of the Dundee Home for Deaf Children a discharge of their intromissions with the funds of the endowment.

PART V

FINANCIAL ARRANGEMENTS

Disposal of property

24. The governing body shall as soon as possible expose for sale or lease the whole of the heritable and moveable property vested in them under the provisions of this scheme.

Constitution of fund

25. The governing body shall, with the free proceeds of sale of or lease of the property described in the foregoing paragraph and the investments which together with the said property formed the endowment known as "The Dundee Home for Deaf Children", constitute a fund to be known as "The Dundee Trust for the Education of Deaf Children" to be held, administered and used as an endowment in accordance with the provisions of this scheme.

Annual payments into Trust

26.—(1) The governing body shall continue to receive each year from the Trustees of the James Guthrie Davidson Mortification one-quarter of the free income of the said Mortification.

(2) The governing body and the Trustees of the James Guthrie Davidson Mortification may enter into an agreement for the redemption of the foregoing annual payment by payment of a capital sum (calculated at not less than 18 years' purchase) and which shall be added to the capital of the endowment.

(3) The governing body shall continue to receive each year from the Governors of the City of Dundee Educational Trust the sum of £25.

Additional donations

27. 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 donation to the capital or income of the Trust or to both capital and income in such proportions as they think fit.

Powers of investment

28. In regard to the investment of the Trust funds or of additional donations received under paragraph 27, the governing body shall have all powers competent to them under the Common Law of Scotland as a body corporate.

Application of income

29.—(1) The governing body after paying all the necessary expenses of management and other outgoings affecting the Trust shall in each year apply as nearly as possible the whole of the free income of the Trust including the income from the capital realised by the sale or lease of heritable and moveable property and any balance carried forward from the previous financial year under sub-paragraph (2) of this paragraph, in the following manner:—

(*a*) they shall discharge any lawful debts of the endowment transferred to and vested in them by paragraph 22 as remain unpaid;

(*b*) they shall expend the sum received by them from the Trustees of the James Guthrie Davidson Mortification under paragraph 26(1) or the income of any capital sum received under paragraph 26(2) in providing a special treat or some special amenity for the pupils of the Dundee School for the Deaf;

(*c*) they shall expend the sum received by them from the Governors of the City of Dundee Educational Trust under paragraph 26(3) for the purposes of this scheme; and

(*d*) they shall pay such sums as are required to meet expenditure incurred by them under Part VI of this scheme.

(2) If at the end of any financial year there is an unexpended balance of income 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.

PART VI

TRUST PURPOSES

Payment of grants

30. Subject to the provisions of paragraphs 27 and 29, it shall be in the power of the governing body to apply the free annual income of the endowment to the making of grants for any or all of the undernoted purposes for the benefit of deaf or partially deaf children and young persons and they shall give preference to the interests of beneficiaries who are ordinarily resident in or connected with the areas comprising the former County of Angus, the former County of Fife and the former Combined County of Perth and Kinross that is to say:—

(*a*) to assist in the provision of private tutors for those who in the opinion of the governing body require such assistance;

(*b*) to assist those who, in preparation for entrance to a trade or profession are being trained by apprenticeship or who have enrolled in a course of instruction at a university or other institution of further or higher education approved by the governing body, whether in Great Britain or elsewhere, for the purpose of enabling such persons to obtain books, instruments, tools, kits or personal equipment and to meet any other expenditure, including expenses of travel and maintenance necessarily incurred by them:

Provided that the annual value of any grant awarded to a person who holds or is to hold an allowance, bursary or scholarship 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 allowance, bursary, or scholarship to be reduced;

(*c*) to assist in the provision of special equipment in supplement to that which an Education Authority may reasonably be expected to supply; and

(*d*) to assist such bodies and persons approved by the governing body to undertake educational experiments and research.

PART VII

MISCELLANEOUS AND GENERAL PROVISIONS

Names of founders

31. In the exercise of their functions under Parts V and VI the governing body shall, as far as is practicable, maintain the names of the founders of the endowments to which this scheme relates.

Copies of scheme

32. The governing body shall maintain a supply of printed copies of this scheme and shall cause a copy to be kept available for inspection by any member or officer of the governing body and copies shall be sold at a reasonable price to all persons applying for them.

Revocation

33. The Dundee Home for Deaf Children Scheme 1965 Order in Council 1966 shall cease to have effect on 25th May 1978.

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

W. A. P. Weatherston,
Assistant Secretary.

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

25th May 1978.

SCHEDULE

PARTICULARS OF THE ENDOWMENTS TO WHICH THIS SCHEME RELATES

Serial No.	*Name of Endowment*	*Founders*	*Governing Instrument*
1.	The Dundee Home for Deaf Children.	Alexander Drysdale, Mrs. Alexander Drysdale; and subscribers to the former Dundee Institution for the Education of the Deaf and Dumb also James Key, Logie Park, Lochee.	The Dundee Home for Deaf Children Scheme 1965 approved by Her Majesty in Council on 6th April 1966.
2.	The James Guthrie Davidson Mortification insofar as relating to an annual payment to the Institution in Dundee for the Education of the Deaf and Dumb.	James Guthrie Davidson of Ardgarth.	Deed of Trust dated 10th and 17th and registered in the Books of Council and Session on 20th all days of November 1862.
3.	The City of Dundee Educational Trust insofar as relating to an annual payment to the Directors of the Dundee Home for Deaf Children.	—	The City of Dundee Educational Trust Scheme 1966 approved by Her Majesty in Council on 5th July 1966.