STATUTORY INSTRUMENTS

1978 No. 372 (S. 39)

EDUCATION, SCOTLAND

C. K. Marr Educational Trust Scheme 1978

Made - - - - 6*th March* 1978

Coming into Operation 6*th March* 1978

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

In exercise of the powers conferred on him by section 118(1) and 129 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 to amend the C. K. Marr Educational Trust Scheme sanctioned by the Court of Session on 1st June 1937

(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 C. K. Marr Educational Trust Scheme 1978

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

Interpretation

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

"Agreement" means the Minute of Agreement among Strathclyde Regional Council, the Trustees of the C. K. Marr Educational Trust and the Board of Governors of Marr College, Troon dated 26th and 31st October 1977 and registered in the Books of Council and Session on 11th November 1977.

"area of benefit" means the area of the former Burgh of Troon which is now constituted by electoral Wards number 16 Troon South and West, number 17 Troon North and Central and number 18 Troon East in the local government area of Kyle and Carrick District as established by the Local Government (Scotland) Act 1973(**a**) and any subsequent extension of the said Wards;

"Council" means Strathclyde Regional Council;

"governing body" means "The Trustees of the C. K. Marr Educational Trust" reconstituted under paragraph 3 of this scheme;

"governor" means a member of the governing body known as "The Trustees of the C. K. Marr Educational Trust" as reconstituted under paragraph 3 of this scheme;

"Scheme of 1937" means the C. K. Marr Educational Trust Scheme sanctioned by the Court of Session on 1st June 1937;

"Trust" means "The C. K. Marr Educational Trust".

(2) The Interpretation Act 1889(**b**) 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 enactment or scheme or as contained in any other enactment or scheme substituted for that enactment or scheme.

PART II

THE GOVERNING BODY

Reconstitution of governing body

3.—(1) For the purpose of carrying this scheme into effect the governing body constituted under the C. K. Marr Educational Trust Scheme sanctioned by the Court of Session on 1st June 1937 under the name of "The Trustees of the C. K. Marr Educational Trust" shall be and is hereby reconstituted under the said name as a body corporate 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 preceding sub-paragraph shall if so requested grant the governing body in office on 6th March 1978 a discharge of their intromissions.

Composition of the governing body

4.—(1) The governing body shall consist of nine elected or appointed governors, two co-opted governors and life governors for the time being, that is to say:—

(**a**) 1973 c. 65. (**b**) 1889 c. 63.

(a) one person to be elected by the Kyle and Carrick District Council chosen from members representing the area of benefit;

(b) one person resident in the area of benefit to be elected by Kyle and Carrick District Council;

(c) a minister having a charge within the area of benefit to be elected by the Presbytery of Ayr;

(d) one person to be elected by the Senatus Academicus of the University of St Andrews;

(e) one person to be elected by the Senatus Academicus of the University of Glasgow;

(f) one person to be elected by the Senatus Academicus of the University of Edinburgh;

(g) one person to be appointed by the Bishop of the Roman Catholic Diocese of Galloway; and

(h) two persons to be elected by Strathclyde Regional Council Education Committee.

(2) Two persons resident in the area of benefit having experience in financial affairs to be co-opted by the governing body.

(3) The ex-Provosts of Troon who were Trustees of the C. K. Marr Educational Trust prior to 6th March 1978 shall be life governors.

(4) No person holding any employment or office of profit under the governing body shall be eligible for membership of the governing body.

Methods of election and co-option

5.—(1) The election of governors under paragraph 4 shall be made by the respective electing bodies, or by committees thereof to whom the power to elect has been delegated, either at ordinary meetings or at meetings summoned expressly for the purpose which shall be convened and conducted according to the ordinary rules and practice of the respective bodies.

(2) The co-option of persons to be governors shall be made by the governing body at meetings convened and conducted in accordance with the provisions of this scheme.

Life governors

6. The life governors shall, subject to the provision of paragraph 8, hold office for the periods of their respective lives, and on the occurrence of vacancies among them the said vacancies shall not be filled.

Periods of office

7.—(1) Subject to the provision of paragraph 8, each elected governor shall hold office for a period of three years:

Provided that a governor elected to succeed a governor 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 governor's term of office.

(2) Each co-opted governor shall hold office for periods of three years.

Vacation of office

8. Any governor who shall intimate in writing his resignation of office, or shall become bankrupt or incapacitated to act, or shall for the space of one year without reasonable cause omit to attend any meeting of the governing body, shall thereupon be held to have vacated office.

Eligibility for second and subsequent periods of office

9. Any governor on the expiry of his term of office as such a governor shall, subject to the provisions of paragraph 8, be eligible for further election or co-option to the governing body as the case may be.

Procedure on occurrence of vacancies

10.—(1) Every vacancy, whether occasioned by expiry of a period of tenure of office as a governor, or by resignation, death or any other cause, shall be entered in the minutes.

(2) Each vacancy among the elected governors shall be intimated by the clerk of the governing body to the body entitled to elect a successor. In the case of a vacancy caused by the expiry of the normal period of tenure of office the intimation shall be made not less than one month before the date of the vacancy. In other cases the vacancy shall be intimated as soon as may be after its occurrence. Within three months of the date of the intimation a successor shall be elected by the body entitled to make the election.

(3) If the body concerned fails to elect a governor within the said period of three months, it shall be in the power of the governing body to appoint a successor, provided that the person appointed shall be a person eligible to be elected by the electing body. Any appointment under this paragraph shall be deemed to be an election by the body entitled to make the election.

Validity of proceedings of governing body

11. No failure or delay or defect in the election or co-option of any governor and no vacancy in the office of governor shall prevent the governing body or any committee appointed by the governing body from acting in the execution of this scheme, nor shall any act or proceeding of the governing body or of any committee appointed by them be invalidated or be illegal by reason of any such vacancy, failure, delay or defect, provided that the number of governors validly elected, appointed or co-opted and in office at the time of the said act or proceeding was not less than five.

Execution of deeds

12. All deeds and other writings, sealed with the common seal and signed by one of the governors and their clerk or other officer appointed for the purpose or by any two governors shall be held to be validly executed on behalf of the governing body.

Transitional arrangements

13.—(1) The governing body known as "The Trustees of the C. K. Marr Educational Trust" in office on 6th March 1978 shall remain in office and shall continue to administer the Trust until the first meeting of the governing body held under this scheme.

(2) The clerk of the Trust shall ensure that as far as practicable all elected governors are elected or appointed prior to the first meeting. Not less than 3 nor more than 4 months after 6th March 1978 the clerk shall convene the first meeting of the governing body notice of which shall be given by him to each member of the governing body or, if the names of such members have not been intimated to him, to the bodies entitled to elect governors.

(3) At their first meeting the governing body shall have power, notwithstanding the provision of paragraph 7, to determine the date of expiry of the terms of office of the elected or appointed governors in office at the date of that meeting, always provided that any such term of office shall not exceed a period of three years.

PART III

ADMINISTRATIVE ARRANGEMENTS

Chairman

14.—(1) The governing body shall appoint a chairman from their own number at an ordinary meeting held at such period of the year as they may determine. They shall also make arrangements under paragraph 20 for supplying his place in the case of his absence.

(2) The chairman shall hold office for one year and shall be eligible for re-appointment.

Meetings of the governing body

15.—(1) The governing body shall hold at least three ordinary meetings 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 three 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) Notice of every meeting shall be delivered or sent by post to each governor not less than seven days before the day upon which the meeting is to be held. The notice 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 or any governor duly authorised by the chairman may convene a meeting on less than seven days notice. No resolution or motion carried at such a meeting shall be valid unless it is voted for by a majority of the governors then in office or it is confirmed by a subsequent meeting convened under the provisions of sub-paragraph 4 above.

Quorum of the governing body

16.—(1) At all meetings of the governing body five governors shall be a quorum and, subject to the provisions of 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 then five, the governors present shall adjourn the meeting to such day or time as they may determine and the provisions of paragraph 15(4) shall apply.

Committees

17.—(1) The governors may appoint such committees of their 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.

(2) The governors may appoint as additional members of any committee persons not being members of the governing body whom the governors deem specially fitted to assist in the work of such committee and any persons so appointed shall hold office for such period as the governors may determine and shall during that period have the same position on the committee as if he or she had been a governor.

Administrative staff

18.—(1) The governing body may appoint a clerk or factor or such other officers as they consider necessary, at such reasonable salaries and under such conditions of service as they may determine.

(2) Any officer of the governors whose duties include intromissions with the funds vested in the governors shall find such caution for his intromissions as the governors may require.

Security measures

19. 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 drawing cheques, provided that all cheques shall be signed by one of the governors and their clerk or other officer appointed for the purpose or by any two governors.

Rules and standing orders

20. 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

VESTING AND FINANCIAL ARRANGEMENTS

Vesting of endowment

21. From and after 6th March 1978 the endowment known as the C. K. Marr Educational Trust which is described in the schedule to this scheme shall be vested in the governing body and shall be held, administered and applied by them exclusively in accordance with the provisions of this scheme.

Additional donations

22. The governing body may accept donations, legacies, annuities, payments under deeds of covenant, subscriptions and other gifts (hereinafter referred to as "additional donations") for the purposes of this scheme, or for purposes connected therewith. 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 the income of the Trust or in such proportions as they think fit to both the said capital and income.

Powers of investment

23.—(1) It shall be in the power of the governing body to invest capital and to change the investments in which capital is invested, in such manner as they think fit. Before exercising these powers they shall obtain and consider proper advice.

(2) It shall be in the power of the governing body to retain any investments in which capital is invested. The governing body shall review their investments at regular intervals and may hold such additional reviews as they consider desirable. For the purpose of such reviews they shall obtain and consider proper advice.

(3) For the purpose of this paragraph 'proper advice' means the advice of a person other than an officer of the governing body who is reasonably believed by the governing body to be qualified, by his ability in, and practical experience of financial matters, to advise the governing body on the exercise of their powers under this paragraph.

Transfer of administration and lease of Marr College

24.—(1) The Trustees of the C. K. Marr Educational Trust constituted under the Scheme of 1937, the Board of Governors of Marr College, Troon and Strathclyde Regional Council as Educational Authority have entered into an Agreement dated 26th and 31st October 1977 to transfer the administration of Marr College to the Council. The Agreement, which is not part of this scheme but is conditional upon the approval of this scheme, shall come into operation on the date that this scheme is made, namely 6th March 1978.

(2) In order to implement the terms of the said Agreement, the governing body shall hereby have the power to lease to Strathclyde Regional Council, the Marr College, its precincts, playing fields and such buildings as the Council deem necessary to enable them to administer the College.

Disposal of heritable property

25. The governing body may sell, lease, grant options over, or otherwise dispose of for value all or any property, heritable or moveable held by them under this scheme:

Provided that so long as the Agreement between the governing body and Strathclyde Regional Council stands, the governing body may not dispose of the property referred to in paragraph 24(2).

Application of income

26.—(1) The governing body after paying all the necessary expenses of management and other outgoings affecting the Trust shall apply the free annual income in the following manner:—

(*a*) They shall spend a sum not exceeding £5,000 on the purposes of Part V of the scheme.

(*b*) They shall accumulate and invest the remainder of the free income of the Trust until such time as a fresh scheme dealing with the future purposes of the Trust is made.

(2) If at the end of any financial year there is an unexpended balance of the income referred to in sub-paragraph 1(*a*) above, it shall be in the power of the governing body to carry the said balance or part thereof forward to the following financial year or to add the said balance or part thereof to the capital of the Trust.

PART V

PURPOSES OF TRUST

Bursaries for secondary and further education

27.—(1) The governing body may award bursaries, of such annual value and for such period as they think fit, to persons resident in the area of benefit who have completed their period of compulsory education and intend to continue their studies by following courses of secondary or further education.

(2) Where it is in the interest of a holder of a bursary that financial assistance should be continued after the termination of a bursary, it shall be in the power of the governing body to pay such a holder an allowance not exceeding in any year the annual value of the bursary previously held, for any period not exceeding two years following the termination of the said bursary.

Bursaries for higher education

28.—(1) The governing body may award bursaries to persons ordinarily resident in the area of benefit who are about to enter or who are in attendance at a university or institution of higher education, or who are about to register or have registered for Open University courses.

(2) The bursary shall be of such annual value as the governing body think fit and subject to the provisions of paragraph 32, each bursary shall be tenable for such number of years as is necessary to enable the holder to complete his or her course of study. It shall be in the power of the governing body to extend the period of tenure if they approve of the holder undertaking an extended course.

Assistance in obtaining practical experience of trades

29. The governing body may incur expenditure from income in granting assistance to persons belonging to the area of benefit who require financial aid while serving apprenticeships or undergoing courses of technical instruction in or gaining experience of the details of any profession, trade or occupation, to enable them to pay any fees which may be charged for such apprenticeship or instruction or practical training, to obtain any necessary books, instruments, tools, kit or personal equipment and to meet any other expenditure necessarily incurred by them.

Travel grants

30. The governing body may incur expenditure from income in making grants to persons belonging to the area of benefit to enable them to travel either in Great Britain or abroad for any purpose of an educational nature. The governing body shall require applicants for such grants to submit for their approval a statement of the purposes for which the journey is to be undertaken, the places to be visited and the probable length of absence from home.

General conditions for awards

31. In making an award under paragraphs 27 to 30 inclusive, the governing body shall have regard to the diligence, attainment and promise of the applicant. In determining the amount of assistance to be granted, the governing body shall take account of the financial circumstances, including any other bursaries or grants paid, and to the expenses likely to be incurred by the applicant.

Withdrawal of bursaries

32. The governing body shall require the holders of bursaries and the recipients of assistance to satisfy them that they are making satisfactory progress in their respective courses of study. If in the opinion of the governing body any such holder or recipient shall be guilty of serious misconduct or shall fail to make reasonable progress, the governing body may withdraw the bursary or assistance or suspend the holder or recipient from its benefits and the decision of the governing body shall be final.

Limitation of value of awards

33. 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.

Prizes

34. The governing body may grant prizes or rewards, of such amount as they think fit, to persons who are or have been resident in and are or have been pupils at a primary school in the area of benefit.

Marr College library

35. It shall be in the power of the governing body to expend a sum not exceeding £100 each year in the upkeep and maintenance of the library at Marr College which library shall be available not only to pupils attending Marr College but also to all persons resident in the area of benefit.

PART VI

MISCELLANEOUS AND GENERAL PROVISIONS

Continuation of benefits

36. Any person who at 6th March 1978 is a beneficiary under the endowment to which this scheme relates shall continue to enjoy the benefit thereof subject always to the conditions under which it was awarded.

Copies of scheme

37. 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 available for sale to the public at a reasonable price.

Revocation

38. Subject to the provisions of paragraph 13(1) of this scheme, the C. K. Marr Educational Trust Scheme sanctioned by the Court of Session on 1st June 1937 shall cease to have effect on 6th March 1978.

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

W. A. D. Weatherston,
Assistant Secretary

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

6th March 1978.

SCHEDULE

Paragraph 21

PARTICULARS OF ENDOWMENT TO WHICH THIS SCHEME RELATES

Name of Endowment (1)	*Founder* (2)	*Governing Instrument* (3)
C. K. Marr Educational Trust	The late Charles Kerr Marr of London	The C. K. Marr Educational Trust Scheme sanctioned by the Court of Session on 1st June 1937.