STATUTORY INSTRUMENTS

1980 No. 2037 (S. 183)

EDUCATION, SCOTLAND

The Patrick Allan-Fraser Trust Scheme 1980

Made - - - -	23*rd December* 1980
Coming into Operation	23*rd December* 1980

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

In exercise of the powers conferred on him by sections 105(1) and 112(5) of the Education (Scotland) Act 1980(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 Patrick Allan-Fraser of Hospitalfield Trust,

(*b*) carrying out the procedure specified in section 112(1) of the said Act,

(*c*) receiving and considering proposed amendments to the draft scheme,

(*d*) framing a scheme under section 112(3) of the said Act to take account of the proposed amendments received,

(*e*) carrying out the procedure specified in section 112(4) of the said Act, and

(*f*) no petition or appeal having been presented to the Court of Session and no petition having been presented to him,

the Secretary of State hereby makes the following scheme:—

(a) 1980 c. 44.

PART I

CITATION AND INTERPRETATION

Citation

1. This scheme may be cited as the Patrick Allan-Fraser Trust Scheme 1980.

Interpretation

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

"Governing Body" means the Governors of the Patrick Allan-Fraser of Hospitalfield Trust constituted in terms of paragraph 3 of this scheme;

"Scheme of 1935" means the Patrick Allan-Fraser Trust Scheme 1935 approved by His late Majesty King Edward VIII in Council on 30 April 1936;

"Trust" means the Patrick Allan-Fraser of Hospitalfield Trust;

"Visual Arts" shall include painting, drawing and such other subjects as the governing body may consider to fall within the meaning of the phrase.

(2) References in this scheme to a part, paragraph or schedule shall, except where the context otherwise requires be construed as references to a part or 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 and subject to the provisions of paragraph 11(1), the governing body constituted and incorporated under the scheme of 1935 with the name "The Governors of the Patrick Allan-Fraser of Hospitalfield Trust" shall be and is hereby reconstituted under the said name as a body corporate with perpetual succession and a common seal, and with power to purchase, acquire, hold and dispose of lands and other property heritable and moveable and to sue and be sued, 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 23rd December 1980 a discharge of their intromissions.

Composition of governing body

4.—(1) The governing body shall consist of seven *ex officio* governors, five appointed governors and not more than two co-opted governors.

(2) The following persons shall be *ex officio* governors:

The Sheriff Principal of Tayside Central and Fife

The Chairman of Tayside Regional Council

The Chairman of Angus District Council

The President of the Royal Scottish Academy

The Secretary of the Royal Scottish Academy

The Chairman of the Royal Fine Art Commission for Scotland

The President of the Royal Incorporation of Architects in Scotland.

(3) The following shall be appointed governors:

(*a*) one person being the Head of Gray's School of Art, Aberdeen, or a member of the teaching staff of the School appointed by the Institute Committee of Robert Gordon's Institute of Technology, Aberdeen;

(*b*) one person being the Principal of Duncan of Jordanstone College of Art, Dundee, or a member of the teaching staff of the College appointed by the governing body of the College;

(*c*) one person being the Principal of Edinburgh College of Art or a member of the teaching staff of the College appointed by the governing body of the College;

(*d*) one person being the Director of Glasgow School of Art or a member of the teaching staff of the School appointed by the governing body of the School;

(*e*) one person appointed by the Scottish Arts Council.

(4) Not more than two persons to be co-opted by the governors from among persons of experience which in the opinion of the governors will be of value to the governors in the exercise of their functions under this scheme. A person who is employed by the governing body shall not be eligible for co-option under the provisions of this sub-paragraph.

Ex officio governors

5.—(1) Each *ex officio* governor shall be entitled either to accept office as a governor or to appoint a person to act as governor in his place. Such nominee shall, subject to the provisions of sub-paragraphs (4) and (5), hold office for a period of 3 years.

(2) Within three months of 23rd December 1980 the Sheriff Principal of Tayside Central and Fife shall intimate to the clerk to the governing body his acceptance of the office of governor or the name of the person appointed as a governor by him.

(3) A Sheriff Principal shall at any time after accepting office as a governor be entitled to resign that office and shall then appoint his nominee to be a governor.

(4) A Sheriff Principal who has appointed a nominee may at any time revoke his nomination and take office as governor or make a further nomination.

(5) A Sheriff Principal shall be deemed to have vacated office on his ceasing to hold the office by virtue of which he is a governor. A Sheriff Principal's nominee shall continue in office until an acceptance of appointment has been made under sub-paragraph (6).

(6) The successor as Sheriff Principal shall within three months of his appointment intimate to the clerk to the governing body his acceptance of office as a governor or the name of the person appointed by him.

(7) Acceptances, nominations, revocations and resignations under this paragraph shall be intimated to the clerk to the governing body as soon after they take place as can conveniently be arranged.

(8) The foregoing provisions of this paragraph shall with the necessary modifications apply to the other *ex officio* governors and to their nominees as they apply to the Sheriff Principal and his nominees.

Appointed governors

6.—(1) The first appointments to the office of appointed governor shall be made as soon as possible after 23rd December 1980 and the names of the persons appointed shall be intimated to the clerk to the governors immediately thereafter.

(2) The governing body shall satisfy themselves that appointments were made at ordinary meetings of the bodies concerned or at meetings summoned for the purpose which were convened and conducted according to the ordinary rules and practice of these bodies.

(3) The appointed governors shall, subject to the provisions of paragraph 8, hold office for periods of three years from the date of their appointment, which shall in the case of the original appointments made under this scheme be reckoned from the date of the first meeting of the governing body.

(4) Subject to the provisions of paragraph 8, appointed governors shall be eligible for re-appointment:

Provided that such governors shall serve for a maximum of two terms, thereafter vacating office for a period of one year before becoming eligible for re-appointment.

Co-opted governors

7.—(1) 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.

(2) Subject to the provisions of paragraph 8, co-opted governors shall hold office and be eligible for re-co-option on the same terms as appointed governors.

Vacation of office

8. Any appointed or co-opted 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 governor;

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

(*c*) where he has otherwise become in the opinion of the governing body incapacitated to act as a governor; or

(*d*) where he has during the period of one year attended no meetings of the governing body and has failed to show reasonable cause for such non-attendance.

Procedure on occurrence of vacancies

9.—(1) Every vacancy among the appointed or co-opted governors whether occasioned by expiry of a period of tenure of office or by resignation, death, or any other cause, shall be entered in the minutes.

(2) Each vacancy among the appointed governors shall be intimated by the clerk of the governing body to the body entitled to appoint a successor. In the case of a vacancy caused by the expiry of the period of tenure of office,

the intimation shall be made not less than one month before the date of a 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 appointed by the body entitled to make the appointment.

(3) If the body concerned fails to appoint 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 appointed by the said appointing body. Any appointment under this sub-paragraph shall be deemed to be an appointment by the body entitled to make the appointment.

(4) On the vacation of office by a co-opted governor the governing body shall consider filling the vacancy under the procedure laid down in paragraph 7.

Validity of proceedings of governing body

10. The proceedings of the governing body shall not be invalidated by any vacancy among the governors or by any defect in the appointment or co-option of any of the governors.

Transitional arrangements

11.—(1) The governors in office on 23rd December 1980 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 to the governing body shall ensure that as far as possible, all appointed governors are appointed prior to the first meeting. Not less than one nor more than four months after 23rd December 1980 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 appoint governors.

PART III

ADMINISTRATIVE ARRANGEMENTS

Chairman

12.—(1) The governors shall appoint a chairman and a vice-chairman from their own number at an ordinary meeting held at such time in the year as they may determine. The chairman and vice-chairman shall hold office for three years or until their own periods of office as governors expire, whichever is the lesser, and shall be eligible for re-appointment, provided that they are also eligible for re-appointment as governors.

(2) The governors shall make such standing orders under paragraph 18 as they think fit for supplying the place of the above-named office-bearers in the case of absence.

Meetings of governing body

13.—(1) The governing body shall hold at least one ordinary meeting in each year at Hospitalfield House, Arbroath, or such other place as the governing body 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 within 30 days by giving notice in writing to the clerk of 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 one week before the day on 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 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 unless it is voted for by not less than two-thirds of the governors then in office or it is confirmed by a subsequent meeting convened under the provisions of sub-paragraph (4).

Quorum of governing body

14.—(1) At all meetings of the governing body six governors shall be a quorum and, subject to the provisions of paragraph 13(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 six, the governors present shall adjourn the meeting to such day or time as they may determine and the provisions of paragraph 13(4) shall apply.

Execution of deeds

15. All deeds and other writings, sealed with the common seal and signed by one of the governors and their clerk or other authorised officer, shall be held to be validly executed on behalf of the governing body.

Minute book

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

Security measures

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

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 the business of the governing body as they think fit.

Committees

19.—(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 person so appointed shall hold office for such period as the governors may determine but shall have no voting rights.

Allowances

20. The governing body may pay to any of its members allowances in respect of:

(*a*) expenses properly incurred in the performance of their duties;

(*b*) loss of remunerative time; and

(*c*) additional expenses (other than as aforesaid) necessarily incurred by them for the purpose of enabling them to perform their duties, being expenses to which they would not otherwise have been subject:

Provided that such allowances shall be at the same rates and on the same conditions as apply for the time being for similar allowances to members of local authorities in Scotland under the Local Government Act 1948(**a**) or sections 45(4) and 46 of the Local Government (Scotland) Act 1973(**b**).

Employment of staff

21.—(1) It shall be in the power of the governing body to employ such administrative, teaching or domestic staff as they consider necessary, provided that in any contract of employment entered into by them the governing body shall take power to dismiss any employee at pleasure.

(2) The governing body may also arrange for the appointment of a clerk or factor and other proper officers to assist them in the conduct of the business of the endowment, at such reasonable salaries or other remuneration and under such conditions of service as they may determine.

(3) Any officer of the governing body whose duties include intromissions with the funds of the endowment shall be required by the governing body to find such caution as they think fit. No governor acting as secretary or other officer shall be entitled to any remuneration, except as provided for in paragraph 20.

Retiring allowances

22. The governing body may grant a pension or retiring allowance in the form of a periodical payment or lump sum, or both, to any person who is or has been employed by them or their predecessors, or enter into an agreement to grant such a pension or retiring allowance or to supplement the pension or retiring allowance so granted all on such terms and for such periods as the governing body may deem expedient.

(**a**) 1948 c. 26. (**b**) 1973 c. 65.

Vested interests

23.—(1) It shall be in the power of the governing body to permit any individual who at 23rd December 1980 held any office, place, employment, pension, compensation allowance, bursary or emolument under or arising out of the endowment to which this scheme relates, to continue to hold the same subject to the conditions under which it was held before that date, providing that this course does not involve any departure from the other provisions of this scheme.

(2) In the event of the governing body not exercising the power conferred upon them under the previous sub-paragraph, the governing body shall make due compensation for the vested interests of any individual mentioned in paragraph 23(1) above.

PART IV

FINANCIAL ARRANGEMENTS

Vesting of endowment

24.—(1) From and after 23rd December 1980 the properties heritable and moveable of the endowment as described in the schedule to this scheme together with all rights, interests and liabilities therein shall continue to be vested in the governing body without the necessity of any new instrument or conveyance and shall be held, administered and applied by them exclusively in accordance with the provisions of this scheme.

(2) Without prejudice to anything contained in sub-paragraph (1) hereof—

(*a*) If the governing body think fit to complete a title to any part of the heritable property vested in them by virtue of this scheme by expeding a notarial instrument or notice of title or otherwise, this scheme shall be deemed to be and may be used as a general disposition or assignation as the case may be of such heritable property in favour of the governing body.

(*b*) Any person in whose name any part of the moveable property hereby vested in the governing body is registered shall if so required by the governing body execute a transfer of the said property to the governing body.

Additional donations

25. 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

26. The governing body shall have the powers of investment applicable to trustees under the Trustee Investments Act 1961(**a**). They shall be entitled to retain any investment received by them under paragraph 25 of this scheme.

(**a**) 1961 c. 62.

Capital expenditure

27.—(1) The governing body may incur capital expenditure for any of the purposes set out in Part V for which capital may properly be used.

(2) The governing body may meet the cost of such capital expenditure by making drafts upon the capital of the Trust or by borrowing from any other fund under their administration or from any body or person willing to lend.

(3) Each loan upon capital shall be repaid by annual instalments or otherwise within such number of years, not exceeding 30, as the governing body consider reasonable having regard to the purpose for which the capital expenditure is required.

(4) The governing body shall be entitled to make drafts upon capital equivalent to any sums added to capital under paragraphs 28, 29(2) and 31(2) of this scheme without setting aside annual income to repay such drafts.

Occasional profits

28.—(1) Any money arising from the sale of timber or from mines or minerals on the estate of the governing body or from any other source which is temporary or occasional shall be invested by the governing body and shall form part of the capital of the endowment.

(2) Any profits accruing from courses and conferences arranged by the governing body under paragraph 39 shall be invested by the governing body and shall form part of the capital of the endowment.

Application of income

29.—(1) After paying all necessary expenses of management and all other outgoings affecting the trust, including the cost of the upkeep of the vault and mortuary chapel built by Patrick Allan-Fraser in the Western Cemetery, Arbroath and such re-payments to capital as are due in respect of money borrowed under paragraph 27(2), the governing body 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 meeting the expenditure incurred by them in executing their functions under this scheme.

(2) If, notwithstanding the foregoing provisions of this paragraph, there is an unexpended balance of 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.

PART V

TRUST PURPOSES

Provision of art institute

30.—(1) The governing body shall provide, furnish, maintain and administer at Hospitalfield House, Arbroath, an Institute for the study and practice of the visual arts, which shall function as an Institute for such period each year as the governing body consider practicable having regard to the finances of the endowment and the facilities available at Hospitalfield House. The governing body shall, subject to the provisions of the scheme, have all the rights, powers and privileges necessary or expedient for carrying this section into effect.

(2) The governing body may, taking into account the provisions of sub-paragraph (1) above, open to the public Hospitalfield House and grounds or part thereof, at such time or times as they think fit.

Contents of Hospitalfield House

31.—(1) The governing body shall arrange for an inventory to be made of the contents of Hospitalfield House, the list to be updated at such intervals as the governing body think fit.

(2) Without prejudice to the general powers conferred by paragraph 30(1) and the purposes for which the house is to be used under this scheme, the governing body shall have the power to dispose of such of the pictures, sculpture, furniture, books or other moveables as they think fit, any sums realised from such disposal to be added to the capital of the endowment.

(3) It shall be in the power of the governing body to acquire such additional pictures, sculpture or furniture as they consider appropriate. They may also engage such curatorial services as they deem necessary for the proper conservation of the contents of the house.

Warden

32.—(1) The governing body shall appoint a warden who shall be responsible to them together with such other officer as they may appoint for the management of Hospitalfield House, for the conduct of those resident there and the performance of such other duties as the governing body may entrust to him. The warden and other officer shall have his ordinary residence at Hospitalfield House, shall be boarded and lodged at the expense of the governing body and shall receive such salary as the governing body think reasonable.

(2) The warden shall be a practising artist or a person professionally interested in the visual arts and shall give such advice and guidance to those resident at the Institute as is within his powers.

Admission of students

33.—(1) During the period in each year for which the Institute is functioning the governing body shall admit to the Institute, for such length of time as they may determine, such number of students including students under paragraph 37(1) as they consider feasible having regard to accommodation and the free income of the trust.

(2) Before admitting any student under this paragraph the governing body shall satisfy themselves that he is a genuine and meritorious student of the visual arts, who is capable of benefiting from a period of residence at the Institute.

(3) Each student shall pay such charges as the governing body may determine to cover the cost of board and lodging, provided always that it shall be in the power of the governing body to admit by way of scholarship or otherwise free of charge or at a modified charge and to pay the travelling expenses of any student who satisfies them that he could not from his own resources meet the charge determined by the governing body or provide himself with opportunities for the study and practice of the visual arts similar to those available at the Institute.

(4) If any genuine and meritorious student of the visual arts who is ordinarily resident within a convenient distance of Hospitalfield House desires to participate in the non-residential benefits of the Institute, the governing body may

allow such student to participate in those benefits free of charge, provided always that they are satisfied that this will not cause undue interference with the activities of the resident students.

Other admissions

34. It shall also be in the power of the governing body to admit to the benefits of the Institute on the payment of such fees as the governing body may determine any person satisfying the governing body that he has a genuine interest in taking advantage of the facilities offered by the Institute.

Terms of admission

35.—(1) The governing body may prescribe such regulations for the convenience and good management of the Institute as they consider necessary. Subject to the regulations, the students and other residents shall be at liberty to make their own arrangements for the occupation of their time while at the Institute and these arrangements may include time for rest and recreation in addition to time for study and practice of the visual arts.

(2) If in the opinion of the warden any student abuses the privileges of the Institute or fails to take reasonable advantage of the opportunities afforded thereby, it shall be in his power to request that student to leave Hospitalfield House and that student shall with all convenient speed comply with such a request. The warden shall make an immediate report on any cases dealt with under this sub-paragraph to the governing body, who may order an inquiry into the circumstances and on receiving the report shall either confirm or reverse the decision of the warden. In any case where the governing body reverses the warden's decision, it shall be in their power to re-imburse any expenses incurred by a student as a direct result of his being requested to leave the Institute.

Distinguished artists

36. With the purpose of stimulating those admitted to the benefits of the Institute, it shall be in the power of the governing body from time to time to invite distinguished exponents of the visual arts to reside as guests at Hospitalfield House, to pay travelling and other personal expenses necessarily incurred by the acceptance of this invitation and to pay such fees as the governing body may determine.

Scholarships

37.—(1) In the event of the whole of the free income of the endowment not being required for the purposes specified in the preceding paragraphs of this Part of the scheme, it shall be in the power of the governing body to award scholarships to assist students or other applicants to attend courses at Hospitalfield House. Each scholarship shall be of such amount and for such period as the governing body may determine. The governing body shall have regard to the attainment and financial circumstances of candidates under this paragraph.

(2) If in the opinion of the governing body the holder of any scholarship is guilty of serious misconduct or fails to take proper advantage of the opportunities afforded by residence at the Institute, the governing body may withdraw the scholarship and require the holder to leave Hospitalfield House. The decision of the governing body in such cases shall be final.

Limitation of value of awards

38. 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.

Courses and conferences

39. The governing body shall have power to organise such courses and conferences connected with the visual arts as they think fit provided that such events shall not prejudice the other purposes for which Hospitalfield House is to be used under this scheme. The governing body shall make such charges for the said courses and conferences as will at least cover all the expenses involved in the holding of such events.

PART VI

MISCELLANEOUS AND GENERAL PROVISIONS

Continuation of benefits

40. Any person who at 23rd December 1980 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.

Publicising of trust

41. The governing body shall have the power to advertise the purposes of the trust in such periodicals as they think appropriate, or in such other manner as they consider suitable, in order to bring these purposes to the attention of potential beneficiaries.

Copies of scheme

42. 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

43. The Patrick Allan-Fraser Trust Scheme 1935 shall cease to have effect on 23rd December 1980.

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

Alastair D. F. Findlay,
Assistant Secretary.

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

23rd December 1980.

SCHEDULE

Paragraph 24(1)

PARTICULARS OF THE ENDOWMENT TO WHICH THIS SCHEME RELATES

Name of Endowment	Founder	Governing Instrument
Patrick Allan-Fraser of Hospitalfield Trust	The late Patrick Allan-Fraser of Hospitalfield	The Patrick Allan-Fraser Trust Scheme 1935 approved by His late Majesty King Edward VIII in Council on 30 April 1936.