STATUTORY INSTRUMENTS

1980 No. 1174 (S. 88)

EDUCATION, SCOTLAND

The Red House Home Trust Scheme 1980

Made - - - - 4*th August* 1980

Coming into Operation 4*th August* 1980

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SCHEDULE—Particulars of endowments 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 endowments known as the Red House Home Trust and Miss I. R. E. Mitchell's Bequest,

(*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:—

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

PART I

CITATION AND INTERPRETATION

Citation

1. This scheme may be cited as the Red House Home Trust Scheme 1980.

Interpretation

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

"beneficiary" means a child admitted to the Red House Home under the provisions of paragraph 27;

"governing body" means the body continued under the provisions of paragraph 3;

"governor" means a governor of the Red House Home Trust; and

"Trust" means the Red House Home Trust.

(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

Continuance of governing body

3. For the purpose of carrying this scheme into effect, the governing body constituted under the Red House Home Trust Scheme 1931 with the name of "The Governors of the Red House Home Trust" shall be and is hereby continued under the said name as a body corporate with perpetual succession and a common seal and with all the rights, privileges and powers of a body corporate.

Composition of governing body

4. The governing body shall consist of a maximum of nine governors that is to say:—

(*a*) an *ex officio* governor who shall be the Headmaster of Loretto School; and

(*b*) eight governors to be elected by the contributors to the Trust.

Election of governors by contributors to the Trust

5.—(1) The election of governors representing contributors to the Trust shall be made at the annual meeting of contributors which shall be held each year at such convenient time and place as the governing body may appoint. Persons who shall be entitled to attend and vote at any annual meeting of contributors shall be those who during the year immediately preceding any annual meeting have given a donation either in money or in kind of such minimum value as shall have been fixed at a previous annual meeting and which may be varied at any subsequent annual meeting. Any firm, trust, voluntary association or body corporate which has donated or subscribed as aforesaid shall be entitled to appoint a representative to attend and vote at the said meeting. The governing body shall cause a roll of contributors to be kept, and a notice shall be sent to each contributor not less than fourteen days before the date appointed for the said meeting intimating the date, time and place thereof and the business to be transacted. The said notice shall be accompanied by a report from the governing body on the progress of the home during the preceding year together with a statement of the accounts of the Trust.

(2) The chairman of the governing body or in his absence one of the other governors shall preside at the said meeting. The said report and statement of accounts shall be considered by the meeting and the contributors may pass such resolutions as they think fit for the guidance of the governing body. The contributors shall at the said meeting elect persons to be governors in accordance with the provisions of this scheme. The contributors shall be entitled to inspect the home at such times as the governing body may appoint.

(3) The governing body shall make rules under paragraph 17 as to the quorum at meetings of contributors and the mode of conducting business at the said meetings.

Periods of office

6. Subject to the provisions of paragraph 7, the governors elected by the contributors to the Trust shall hold office for periods of three years and shall be eligible for re-election:

Provided that a governor elected in place of a governor who has died or otherwise vacated office before the end of his normal term of office shall hold office only during the unexpired portion of the said governor's term of office.

Vacation of office

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

Procedure on occurrence of vacancies

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

(2) In the case of a vacancy caused by the expiry of the normal term of office, a successor shall be elected at the annual meeting of contributors.

(3) In the case of a vacancy caused by a governor who has died or otherwise vacated office before the end of his normal term of office, it shall be in the power of the governing body to co-opt a governor to hold office until the ensuing annual meeting of contributors. A successor shall be elected at the said meeting and the co-opted governor shall be eligible for election.

Validity of proceedings of governing body

9. The proceedings of the governing body shall not be invalidated by any vacancy in the office of governor or by any defect in the election of any of the governors, provided that the number of governors validly elected and in office at the time of the said proceedings is not less than four.

Execution of deeds

10. All deeds and other writings which are sealed with the common seal and signed by two 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.

PART III
ADMINISTRATIVE ARRANGEMENTS

Chairman

11. The governing body shall from time to time appoint a chairman from their own number. They may make such arrangements as they think fit for filling his place in the case of his absence.

Committees

12. The governing body may appoint such committees of their own number or otherwise 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

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

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

(3) No governor acting as clerk or other officer of the Trust shall be entitled to any remuneration.

Meetings of governing body

14.—(1) The governing body shall hold at least two ordinary meetings in the year at such places and times as they may determine.

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

(3) Any two 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 seven 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.

(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 all the governors then in office or unless it is confirmed at any subsequent meeting convened under the provisions of sub-paragraph 4 above.

Quorum of governing body

15.—(1) At all meetings of the governing body three governors shall be a quorum and, subject to the provisions of paragraph 14(5) all questions shall be determined by a majority of the governors present. 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 three, the governors present shall adjourn the meeting to such day or time as they may determine and the provisions of paragraph 14(4) shall apply.

Minute book

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

Rules and standing orders

17. 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 and functions of the governing body as they think fit.

PART IV
VESTING AND FINANCIAL ARRANGEMENTS

Vesting and augmentation of Trust

18. From and after 4th August 1980 the endowment named and described in Part II of the Schedule shall be amalgamated with the Red House Home Trust and the said Trust as so augmented shall continue to be vested in the governing body and shall be held, administered and applied exclusively by them in accordance with the provisions of this scheme.

Powers of investment

19. The governing body shall have the powers of investment applicable to trustees under the Trustee Investment Act 1961. They shall be entitled to retain any investments received by them under paragraph 20.

Additional donations

20. The governing body may appeal to the public for and receive 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 direction 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.

General powers in relation to land and buildings

21. It shall be in the power of the governing body to purchase, feu, lease or otherwise acquire and hold such land and buildings as may in the opinion of the governing body be required for the purposes of Part V, and to erect on land so acquired and on land vested in them at 4th August 1980 such buildings as the governing body may consider necessary. The governing body may alter, improve, enlarge and equip the buildings vested in them at 4th August 1980 and any other buildings acquired or built by them and may sell, feu or lease the existing and any future buildings and the lands connected therewith.

Capital expenditure

22.—(1) It shall be in the power of the governing body to incur capital expenditure for any of the purposes of Part V to which capital may properly be devoted.

(2) The governing body may meet the cost of such capital expenditure by making drafts upon the capital of the Trust or by borrowing on the security of the property, funds and assets vested in them.

(3) Each draft upon capital and each loan shall be repaid from income to capital or the lender, as the case may be, within such period of not more than thirty years as the governing body consider reasonable having regard to the purpose for which the expenditure was incurred, provided that the governing body shall be entitled to make drafts upon capital equivalent to any sums added to capital under paragraph 23(2) without repaying such drafts.

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 executing the purposes 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 V
PURPOSES OF THE TRUST

Provision and maintenance of home

24.—(1) The governing body shall provide and maintain a home to be known as "The Red House Home", for the benefit of the category of children described in paragraph 27.

(2) It shall be in the power of the governing body to provide and maintain playgrounds, with any necessary buildings or erections, to be used for games and physical recreation in connection with the home.

Organisation and management of home

25. The governing body shall exercise a general supervision and control over the home and the children resident there. They shall arrange for the admission of children to the home. No child shall be expelled from the home without the express approval of the governing body which shall be recorded in the minutes of the governing body.

Superintendent and staff

26. The governing body shall appoint a superintendent and shall make rules under paragraph 17 defining the status and functions of the superintendent. The governing body shall appoint such other officers as they consider necessary. The superintendent shall, subject to the supervision of the governing body, have direct control of the home and the children resident there and shall be generally responsible for the whole discipline and organisation of the home and for the welfare of the residents. He or she shall have power summarily to suspend any member of the staff, provided that he or she shall report such suspension within seven days to the governing body. Suspension shall not affect the right of the person suspended to salary or other emoluments attached to his or her post.

Admission of beneficiaries

27.—(1) The governing body shall admit to the home children not exceeding 16 years of age whose circumstances in the opinion of the governing body make it desirable in the interests of the children that they should be admitted to a home of the type conducted by the governing body.

(2) Candidates for admission to the home shall satisfy the governing body that their state of health is not prejudicial to the other beneficiaries.

(3) No beneficiary residing in the home at 4th August 1980 shall be deprived of any benefit to which he was entitled under the Red House Home Trust Scheme 1931 by reason only of the coming into operation of this scheme.

Terms of admission

28.—(1) The period during which any beneficiary may remain in the home shall be at the sole discretion of the governing body.

(2) It shall be in the power of the governing body to require the removal of any beneficiary from the home if, in the opinion of the governing body, the beneficiary so behaves as to warrant removal or is on medical grounds undesirable as a resident in the home:

Provided that the governing body before exercising the said power shall satisfy themselves that other suitable provision will be made for the care of the beneficiary by a local authority, or a voluntary body or another person.

(3) In cases in which the governing body admit a beneficiary to the home at the request of the Department of Health and Social Security or a Regional Council, or of a parent or guardian who is in a position to make payments for the support of the beneficiary, the governing body may make a charge on the said body or person who made the request towards the cost incurred or to be incurred in respect of the beneficiary.

(4) In any case in which a beneficiary is earning an income, the governing body may make a reasonable charge towards the cost incurred in respect of the said beneficiary.

Maintenance, education and after-care of beneficiaries

29.—(1) It shall be the duty of the governing body to maintain, clothe and house the beneficiaries and to provide for their religious instruction and moral training and for their physical welfare. Such religious instruction shall be in accordance with the doctrines of the Church of Scotland, provided that suitable arrangements shall be made for the religious instruction of beneficiaries belonging to other denominations.

(2) The governing body shall cause every beneficiary who is of school age to attend a public or grant-aided school.

(3) The governing body shall determine as regards each beneficiary, after consultation with the beneficiary and with such other persons as they think fit, whether or not the beneficiary, after ceasing to be of school age, should continue to receive secondary education or should undergo further education.

(4) The governing body shall not discharge any beneficiary from the home unless they are reasonably assured that suitable provision has been made for the beneficiary's welfare.

Retiring allowances

30. It shall be in the power of the governing body to pay a pension or retiring allowance or to supplement the pension or retiring allowance of any person who is or has been employed by them. It shall be lawful for the governing body to enter into such arrangements as they deem necessary for the exercise of their powers under this paragraph.

PART VI

MISCELLANEOUS AND GENERAL PROVISIONS

Copies of scheme

31. 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 every member and officer of the governing body and copies shall be made available for sale to the public at a reasonable price.

Revocation

32. The Red House Home Trust Scheme 1931 shall cease to have effect on 4th August 1980.

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

Scottish Education Department,
New St. Andrew's House,
Edinburgh.
4th August 1980.

Alastair D. F. Findlay,
Assistant Secretary

Paragraph 18

SCHEDULE

PARTICULARS OF ENDOWMENTS TO WHICH THIS SCHEME RELATES

Name of Endowment (1)	Founders (2)	Governing Instrument (3)
	Part I	
Red House Home Trust		Red House Home Trust Scheme 1931 approved by His late Majesty King George V in Council on 17th March 1932.
	Part II	
Miss I. R. E. Mitchell's Bequest	Miss I. R. E. Mitchell	Trust Disposition and Settlement by Miss I. R. E. Mitchell dated 30th April 1941 and, with Codicil dated 1st September 1943, registered in the Books of Council and Session on 4th April 1945.