
STATUTORY INSTRUMENTS

1991 No. 1141

CHARITIES

The Charities (John Lyon Road Trust) Order 1991

Made - - - - - *8th May 1991*

Coming into force - - - - - *22nd May 1991*

Whereas the Charity Commissioners for England and Wales have, in pursuance of subsection (1) of section 19 of the Charities Act 1960⁽¹⁾ settled the Scheme set out in the Appendix to this Order with a view to its being given effect under that section:

And Whereas the said Scheme does not alter any statutory provision contained in or having effect under any public general Act of Parliament:

And Whereas a draft of this Order has been laid before Parliament and the period of forty days mentioned in section 6(1) of the Statutory Instruments Act 1946⁽²⁾ has expired, and neither House of Parliament has within that period resolved that the Order be not made:

Now, therefore, in pursuance of section 19(2) of the Charities Act 1960, I hereby make the following Order:—

1. This Order may be cited as the Charities (John Lyon Road Trust) Order 1991 and shall come into force on the fourteenth day after the day on which it is made.
2. The Scheme set out in the Appendix to this Order shall have effect.

Home Office

8th May 1991

Kenneth Baker
One of Her Majesty's Principal Secretaries of
State

(1) 1960 c. 58.
(2) 1946 c. 36.

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APPENDIX

FOR THE ADMINISTRATION OF THE CHARITIES TOGETHER KNOWN AS THE JOHN LYON ROAD TRUST

Whereas the following Charities, established in pursuance of a Charter granted by Her Majesty Queen Elizabeth the First on the 19th February 1572 and together known as the John Lyon Road Trust, namely:—

- (a) the Charity of John Lyon for the Edgware Road founded by conveyance dated the 6th July 1578; and
- (b) the Charity of John Lyon for the Harrow Road founded by conveyance dated the 19th December 1582,

are regulated by Statutes made by John Lyon in pursuance of that Charter on the 18th January 1591, and by the following Acts of Parliament:—

- (i) an Act of 1803 for enabling the Keepers and Governors of the Possessions, Revenues, and Goods of the Free Grammar School of John Lyon, within the Town of Harrow on the Hill, in the County of Middlesex, to grant Building Leases of certain of the Grounds and Estates of the said John Lyon **(3)**
- (ii) an Act of 1819 for enabling the Keepers and Governors of the Possessions, Revenues, and Goods of the Free Grammar School of John Lyon, within the Town of Harrow-on-the-Hill, in the County of Middlesex, to grant Building Leases of certain of the Grounds and Estates heretofore of the said John Lyon **(4)**
- (iii) an Act of 1827 for confirming certain Leases granted under an Act passed in the Forty third Year of the Reign of His late Majesty King George the Third, intituled An Act for enabling the Keepers and Governors of the Possessions, Revenues, and Goods of the Free Grammar School of John Lyon, within the Town of Harrow-on-the-Hill in the County of Middlesex, to grant Building Leases of certain of the Grounds and Estates of the said John Lyon; and for amending the same Act **(5)**
- (iv) an Act of 1839 for enabling the Keepers and Governors of the Possessions, Revenues, and Goods of the Free Grammar School of John Lyon within the Town of Harrow on the Hill in the County of Middlesex to grant improving Leases of their Estates at Harrow and Barnet, and for other Purposes therein mentioned **(6)**
- (v) the Metropolis (Kilburn and Harrow) Roads Act 1872 **(7)**

And Whereas the body corporate called the Keepers and Governors of the Possessions, Revenues and Goods of the Free Grammar School of John Lyon, within the Town of Harrow-upon-the-Hill in the County of Middlesex and incorporated by that Charter granted on the 19th February 1572, is the Trustee of the Charities and has on behalf of the Charities made application to the Charity Commissioners for England and Wales for a Scheme for the administration of the Charities:

And Whereas it appears to the Commissioners that a Scheme should be established for the administration of the Charities but also that it is necessary for the Scheme to alter the provision made by those Acts:

And Whereas in pursuance of section 21 of the Charities Act 1960 public notice of the Commissioners' proposals for the Scheme has been given and the Commissioners have considered all the representations made to them and have decided to proceed with the proposals with certain modifications:

(3) 1803 c. 104 (Local and Personal).
(4) 1819 c. 21 (Private).
(5) 1827 c. 31 (Private).
(6) 1839 c. 21 (Private).
(7) 1872 c. xlix.

Now, therefore, the Charity Commissioners for England and Wales, in pursuance of section 19(1) of the Charities Act 1960, hereby settle the following Scheme:—

SCHEME

Administration of Charities.

1.—(1) The following Charities together known as the John Lyon Road Trust, namely:—

- (a) the Charity of John Lyon for the Edgware Road; and
- (b) the Charity of John Lyon for the Harrow Road,

and the property of those Charities shall be administered and managed subject to and in accordance with the provisions of this Scheme; and, subject to clause 4 below, the provisions now regulating the Charities shall cease to have effect.

(2) The body corporate called the Keepers and Governors of the Possessions, Revenues and Goods of the Free Grammar School of John Lyon, within the Town of Harrow-upon-the-Hill in the County of Middlesex, (in this Scheme referred to as “the Trustee”) shall continue to be the Trustee of the Charities.

(3) The Charities shall be administered together as one Charity under the name of John Lyon’s Charity (and are in this Scheme referred to as “the Charity”).

(4) The Trustee may delegate to a committee consisting of any two or more of its members—

- (a) any of the Trustee’s functions relating to the administration of the Charity; and
- (b) the application of the Charity’s income in cases of emergency;

Provided that any such committee shall as soon as reasonably possible report to a full meeting of the Trustee anything done by the committee.

OBJECT

Object.

2.—(1) The object of the Charity shall be to further all or any of the following purposes:—

- (a) the relief of the aged, disabled or poor inhabitants of the London Boroughs of Barnet, Brent, Camden, Ealing, Hammersmith and Fulham, Harrow and the Royal Borough of Kensington and Chelsea and the Cities of London and Westminster (the inhabitants of those areas being referred to in this clause as “the inhabitants”);
- (b) the relief of distress and sickness among the inhabitants;
- (c) the provision and support (with the object of improving the conditions of life for the inhabitants in the interests of social welfare) of facilities for recreation and other leisure time occupation;
- (d) the provision and support of educational facilities for the inhabitants; and
- (e) any other charitable purposes for the benefit of the inhabitants;

Provided that the said purposes shall not include the direct relief of rates, taxes or other public funds.

(2) In furtherance of the said object the Trustee may purchase, take on lease, exchange or otherwise acquire any land for use for the purposes of the Charity or may appropriate any land belonging to the Charity for use for the said purposes.

APPLICATION OF INCOME

Expenses of management.

3. The Trustee shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of buildings) and all other charges and outgoings payable in respect of that property and all the proper costs, charges and expenses of and incidental to the administration of the Charity and management of its property.

Accumulating account.

4. Subject to any further Order of the Charity Commissioners, the Order of the Commissioners of the 28th March 1983 (relating to the accumulation of income of the Charity in a separate account so as to provide against loss in respect of capital endowment) shall continue to have effect.

Application of income.

5.—(1) Subject to clauses 3 and 4 above and to the provisions of this clause, the Trustee shall apply the yearly income of the Charity in furtherance of the object of the Charity.

(2) The application of the yearly income in furtherance of the object of the Charity shall be in accordance with rules made by the Trustee and approved by the Commissioners from time to time.

(3) The rules made under sub-clause (2) above for the application of the yearly income shall include provision for:—

- (a) the local authority of each of the areas specified in clause 2(1)(a) above to be consulted by the Trustee about the application of income within the area of such authority; and
- (b) the extent to which the Trustee may give priority to the needs of the inhabitants of any of the said areas.

INVESTMENT

Free Fund and Restricted Fund.

6.—(1) The Trustee shall divide into two funds, to be known respectively as the Free Fund and the Restricted Fund, the property of the Charity other than land and other than the sum of £1,525,000 in cash (that sum being referred to in this and the next following clause as “the specified sum”) so as to secure that the value of the property allocated to the Free Fund is equal to twice the value of the property allocated to the Restricted Fund.

(2) When the division required by sub-clause (1) above has been made—

- (a) property representing, or constituting a capital accretion to, property included in one of the funds shall be included in that fund;
- (b) subject to paragraph (a) above, any property of the Charity (other than land and other than the specified sum) which is not included in either fund and is to be invested shall be divided between and added to those funds so as to secure that the value of the property added to the Free Fund is equal to twice the value of the property added to the Restricted Fund.

Investment in land.

7.—(1) Any land which—

- (a) when this Scheme takes effect, belongs to the Charity; or
- (b) thereafter belongs to the Charity and is not included in the Free Fund,

may be retained as an investment.

(2) The specified sum shall be invested in freehold land in England or Wales or leasehold land there having at the time of making the investment at least sixty years of the term unexpired.

(3) Where any land—

(a) which is retained in pursuance of sub-clause (1) above; or

(b) which is acquired in pursuance of sub-clause (2) above or in which proceeds of sale of other land are invested in pursuance of this sub-clause,

is sold, the proceeds of sale may (notwithstanding clause 6(2)(b) above) be re-invested in freehold land in England or Wales or leasehold land there having at the time of making the investment at least sixty years of the term unexpired, or (subject to obtaining the approval of the Charity Commissioners and to any conditions of that approval) applied in effecting improvements to any land or buildings of the Charity; but insofar as not so re-invested or applied, the proceeds of sale shall be divided between and added to the Free and Restricted Funds so as to secure that the amount added to the Free Fund is equal to twice the amount added to the Restricted Fund.

(4) Before re-investing any proceeds of sale in freehold or leasehold land in accordance with the provisions of sub-clause (3) above the Trustee shall obtain and consider appropriate professional advice as to whether such acquisition represents a satisfactory investment for the Charity.

(5) The specified sum and any proceeds of sale referred to in sub-clause (3) above may be temporarily invested in any investments which are for the time being narrower-range investments within the meaning of the Trustee Investments Act 1961⁽⁸⁾ pending investment in land under sub-clause (2) or (3) above.

Investment of Restricted Fund.

8. Property included in the Restricted Fund shall be invested only in investments which are for the time being narrower-range investments within the meaning of the Trustee Investments Act 1961.

Investment of Free Fund.

9.—(1) Property included in the Free Fund shall (subject to sub-clause (6) below) be invested only in investments described in one or more of the paragraphs of sub-clause (2) below.

(2) The investments referred to in sub-clause (1) above are as follows:—

(a) any investments which are for the time being narrower-range or wider-range investments within the meaning of the Trustee Investments Act 1961 or which are for the time being otherwise authorised by law for the investment of trust property;

(b) freehold land in England and Wales, or leasehold land there having at the time of making the investment at least sixty years of the term unexpired;

(c) any securities of the government of any of the specified countries;

(d) the debentures or debenture stock or preference or preferred ordinary or deferred stock or shares or unsecured loans or other marketable securities of any company incorporated in any of the specified countries and listed or regularly dealt in on a recognised Stock Exchange in any of the specified countries subject nevertheless to the following provisions of this clause.

(3) In sub-clause (2) above, “specified countries” means—

(a) the United Kingdom, the United States of America, Australia, Canada, Hong Kong, Japan, Malaysia, New Zealand, Norway, Singapore, Sweden, Switzerland and any country which is for the time being a member of the European Economic Community; and

(8) 1961 c. 62.

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(b) any state or province (however named) of a country mentioned in paragraph (a) above.

(4) Sub-clause (2)(d) above does not include any stock, shares or other securities of a company (other than a company incorporated in the United Kingdom carrying on banking or insurance business in the United Kingdom) which, by reason of not being fully paid up or otherwise, carries or carry a liability to contribute by way of calls either in the event of the company being wound up or otherwise, not being a liability to pay one or more of the instalments of capital where the terms of issue of newly-issued securities provide for payment of capital by instalments all of which are to be paid not later than three years from the date of issue.

(5) Sub-clause (2)(d) above does not include any stock, shares or other securities of a company unless at the time of making the investment the paid up capital of the company is at least £750,000 (or its equivalent at the then current rate of exchange); and for the purposes of this sub-clause, the paid up capital of the company shall be deemed to include the capital sum (other than capital surplus) appearing in the company's published accounts in respect of any stock or shares having no par value.

(6) Property included in the Free Fund may, subject to obtaining the approval of the Charity Commissioners and to any conditions of that approval, be applied in effecting improvements to any land or buildings of the Charity.

Investment Adviser.

10.—(1) The Trustee shall engage an investment expert, being

- (i) a company or firm which is either an authorised person or an exempted person within the meaning of the Financial Services Act 1986⁽⁹⁾ or
- (ii) an individual who is an authorised person within the meaning of that Act and who has at least 15 years' experience in the City of London of investment or financial management.

(2) In the following provisions of this Scheme, "Investment Adviser" means the expert engaged in pursuance of sub-clause (1) above.

(3) The Trustee shall require the Investment Adviser to comply with the following provisions:—

- (a) the Adviser shall keep the investments of the Charity under review at all times; and
- (b) the Adviser shall inform the Trustee promptly of any change in those investments which appears to the Adviser to be desirable (but if so instructed shall instead inform an Investment Committee constituted for the purposes of clause 12 below).

(4) No investment other than—

- (a) an investment which is for the time being a narrower-range investment within the meaning of the Trustee Investments Act 1961; or
- (b) an investment in land,

shall be made except on the advice of the Investment Adviser.

Delegation to Investment Adviser.

11.—(1) Without prejudice to any other of its powers, the Trustee may (subject to the provisions of this Scheme) delegate to the Investment Adviser, for such period and upon such other terms as the Trustee thinks fit, power at the discretion of the Investment Adviser to buy and sell investments on behalf of the Trustee.

(2) Where the Trustee makes a delegation under sub-clause (1) above, it shall at that time and from time to time thereafter give to the Investment Adviser clear instructions as to investment policy.

(9) 1986 c. 60.

(3) The Trustee shall secure that any delegation under sub-clause (1) above is for the time being subject to the following provisions:—

- (a) no power included in the delegation shall exceed or in any way infringe the powers of investment of the Trustee;
- (b) no power included in the delegation shall be exercisable except in accordance with instructions as to investment policy given in advance under sub-clause (2) above;
- (c) the Trustee may, with or without notice, revoke the delegation or alter any of its terms notwithstanding that the period of the delegation has not expired (but without prejudice to the validity of anything done before such a revocation or alteration);
- (d) the Investment Adviser shall, as soon as reasonably possible after each purchase or sale in exercise of a power included in the delegation, report that purchase or sale to the Trustee (but if so instructed shall instead report to an Investment Committee constituted for the purposes of clause 12 below).

(4) The Trustee shall review every delegation under sub-clause (1) above at such intervals (not exceeding, in the absence of special reasons, 24 months from the last preceding review under this sub-clause) as the Trustee thinks fit.

(5) The members of the Trustee shall be liable for the acts and defaults of the Investment Adviser in exercise of any power delegated under sub-clause (1) above to the same extent and in the same manner as if they were the acts and defaults of the Trustee.

Investment Committee.

12. The Trustee may delegate any of its functions relating to investment to an Investment Committee consisting of any two or more of its own members on such terms as it thinks fit: Provided that those terms shall include a requirement that the Investment Committee report as soon as reasonably possible to a full meeting of the Trustee anything done by or in relation to that Committee.

MANAGEMENT OF PROPERTY

Sale.

13. Subject to the authority of a further Order or Orders of the Commissioners the Trustee may at any time sell the whole or any part of any such land appropriated for use for the purposes of the Charity in accordance with clause 2(2) above.

Proceeds of sale.

14. Unless the Commissioners otherwise direct the clear proceeds of any sale as aforesaid shall be invested in trust for the Charity.

Management and letting of land.

15.—(1) The Trustee shall let and otherwise manage all land belonging to the Charity and not required to be retained or occupied for the purposes of the Charity subject to such consents as are required by law.

(2) The Trustee shall secure, where it grants any lease—

- (a) that the lessee executes a counterpart of the lease; and
- (b) that the lease contains covenants on the part of the lessee for the payment of rent and all other usual and proper covenants applicable to the property comprised in the lease, and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.

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Repair and insurance.

16.—(1) The Trustee shall keep in repair and insure to their full value against fire and other usual risks all the buildings of the Charity not required to be kept in repair and insured by lessees of those buildings.

(2) The Trustee shall effect suitable insurance against public liability and employer's liability.

GENERAL PROVISIONS

Holding of investments.

17.—(1) Without prejudice to any other of its powers, the Trustee may if it thinks fit appoint any corporation or corporations as nominees of the Trustee to hold the whole or such part as the Trustee may determine of any investments for the time being belonging to the Charity.

(2) The Official Custodian for Charities shall, upon being directed to do so by the Trustee, transfer all investments and cash held by him in trust for the Charity into the name of such nominee appointed as aforesaid and thereupon the said Official Custodian shall be discharged from his trusteeship as respects the said investments and cash.

Employment and remuneration of Clerk and other officers and servants.

18.—(1) The Trustee may employ a Clerk and such other officers and servants as it thinks necessary or expedient for the proper administration and management of the Charity and its property upon such reasonable terms as to remuneration and notice (within the limits permitted by law) and otherwise as the Trustee thinks fit.

(2) The Trustee may pay reasonable remuneration to the Investment Adviser for services rendered to the Charity under the provisions of this Scheme and to any corporation as nominee of the Trustee under clause 17(1) above.

(3) Any costs, charges or expenses incurred under the preceding provisions of this clause shall be defrayed out of the income of the Charity in accordance with clause 3 above.

(4) Notwithstanding the preceding provisions of this clause, no person being a member of the Trustee shall receive any remuneration or other benefit at the cost of the Charity.

Questions of construction.

19. Any question as to the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme may be referred to the Charity Commissioners for their opinion or advice.

Sealed by Order of the Commissioners this 28th day of February 1991.

L.S.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a Scheme of the Charity Commissioners for two Charities known together as the John Lyon Road Trust. The Charities derive from a Royal Charter of 1572 and two conveyances of land of 1578 and 1582. The Royal Charter established a body corporate, and in the conveyances John Lyon made provision for that body to hold certain land on trust to apply the income for the repair of specified roads in London. The repair of those roads is now adequately provided for by other means.

The Scheme continues the same body corporate as Trustee but provides for the income of the Charities to be applied for the benefit of the inhabitants of certain parts of London in the ways specified in clause 2 of the Scheme. The Scheme also widens the Trustee's investment powers and contains other administrative and general provisions.