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## SCHEDULE

### CHURCH OF SCOTLAND (PROPERTIES AND INVESTMENTS)

#### PART IV

##### TRANSFERS TO INVESTORS TRUST AND TO GENERAL TRUSTEES, ETC.

###### *Transfers to Investors Trust*

- 22 (1) Subject to the provisions of this Order, all moveable property vested in and held by the Trust immediately before the appointed day shall, by virtue of this Order and without the necessity of any other instrument of transfer, on that day be transferred to and vest in the Investors Trust.
- (2) The production of a copy of the Act confirming this Order shall be sufficient warrant to the registrar, directors or other officials of any corporation, firm, company, authority or concern as well out of Scotland as in Scotland to enter the Investors Trust upon the register thereof as proprietor or holder of the moveable property transferred to and vested in the Investors Trust by subsection (1) of this section without the production of any particular assignation, conveyance or transfer thereof and to grant and issue to the Investors Trust a certificate or other writing as evidence of the title of the Investors Trust to such moveable property:

Provided that in the case of any moveable property which is only transferable in a particular manner prescribed by or under an Act of Parliament or by or under the constitution or rules of any particular corporation, firm, company or concern such moveable property shall be transferred to and vested in the Investors Trust in the prescribed manner.

- (3) In addition to the moveable property transferred to and vested in the Investors Trust by virtue of subsection (1) of this section, the Investors Trust may hold any heritable property or moveable property held at the commencement of this Order or subsequently acquired—
- (a) by or on behalf of the Church, or any court of the Church or board or committee of the General Assembly or any association, fund or scheme of the Church or by or on behalf of any congregation, financial board of a congregation or other ecclesiastical body or organisation of the Church; or
  - (b) by any trustee or body of trustees for behoof of or in connection with the Church or any court of the Church, board or committee of the General Assembly, association, fund or scheme of the Church or any congregation, financial board of a congregation, ecclesiastical body or organisation of the Church under any settlement or deed of trust, gift or appointment whether granted inter vivos or mortis causa.
- (4) The moveable property transferred to and vested in the Investors Trust by virtue of subsection (1) of this section and any property held by it by virtue of subsection (3) of this section shall be held by the Investors Trust for the same ends, uses and purposes as those for which they were held by the Trust or for which they are or may hereafter be held or acquired by or on behalf of the Church or any court of the Church, board or committee of the General Assembly, association, fund or scheme of the Church or by any congregation, financial board of a congregation or other ecclesiastical body or organisation of the Church or by a trustee or body of trustees as aforesaid

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prior to their being so transferred to the Investors Trust, where such ends, uses and purposes are expressed or defined and, failing such expression or definition, subject to the directions of the court of the Church, board or committee of the General Assembly, association, fund or scheme of the Church or the congregation, financial board of a congregation or other ecclesiastical body or organisation of the Church or trustee or body of trustees as aforesaid on whose behalf they were held or, failing such directions, then, with the exception of any property held by them by virtue of subsection (3) (b) of this section, subject to the directions of the General Assembly.

### *Transfers to General Trustees*

- 23 (1) In this section “title sheet” means a title sheet of an interest in land under section 6 of the Land Registration (Scotland) Act 1979.
- (2) Subject to the provisions of this Order all heritable property in Scotland vested in and held by the Trust immediately before the appointed day shall, by virtue of this Order, on that day be transferred to and vest in the General Trustees and all rights, obligations, claims and demands relative to the said heritable property including all accrued rents, income or interest and all arrears of rents, income or interest shall by virtue of this Order be deemed and taken to be validly transferred to and vested in the General Trustees.
- (3) For the purpose of enabling the General Trustees if thought fit to complete a title to any heritable property in Scotland or to any part thereof by—
- (a) expediting a notarial instrument or notice of title and recording the same in the appropriate division of the General Register of Sasines or by obtaining or granting a conveyance, assignation or transfer of such property and recording the same in like manner; or
  - (b) registering an interest in land in the Land Register of Scotland; or
  - (c) registering such amendment as is necessary to the title sheet of an interest in land registered in the Land Register of Scotland, this Order 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 General Trustees.
- (4) In addition to the property transferred to the General Trustees by virtue of subsection (2) of this section, the General Trustees may hold any heritable property or moveable property held at the commencement of this Order or subsequently acquired —
- (a) by or on behalf of the Church or any presbytery of the Church, or any board or committee of the General Assembly or any association, fund or scheme of the Church; or
  - (b) by any trustee or body of trustees for behoof of or in connection with the Church or any court of the Church, board or committee of the General Assembly, association, fund or scheme of the Church or any congregation, financial board of a congregation, ecclesiastical body or organisation of the Church under any settlement or deed of trust, gift or appointment, whether granted inter vivos or mortis causa.
- (5) The property transferred to and vested in the General Trustees by virtue of subsection (2) of this section and any property held by them by virtue of subsection (4) of this section shall be held by the General Trustees for the same ends, uses and purposes as those for which they were held by the Trust or for which they are or may hereafter be held or acquired by the Church or any presbytery of the

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Church, or any board or committee of the General Assembly or any association, fund or scheme of the Church, or by a trustee or body of trustees as aforesaid, prior to their being so transferred to the General Trustees where such ends, uses and purposes are expressed or defined and, failing such expression or definition, subject to the directions of the presbytery, board or committee, association, fund or scheme of the Church, or trustee or body of trustees as aforesaid, on whose behalf they were held or, failing such directions, then, with the exception of any property held by them by virtue of subsection (4) (b) of this section, subject to the directions of the General Assembly.

*Transfer of interests in heritable and other property*

- 24 (1) For the avoidance of doubt it is hereby declared that the transfer and vesting of any property to and in the Investors Trust or the General Trustees by virtue of this Order shall not—
- (a) in relation to property in England and Wales constitute a purchase or creation of an interest in land for the purposes of section 30 (2) of the Landlord and Tenant Act 1954; or
  - (b) constitute an assignation, assignment, transfer, devolution, parting with possession or other disposition of property or of an interest in property for the purposes of any provision relating to assignation, assignment, transfer, devolution, parting with possession or other disposition contained in any deed or other instrument or document concerning that property or that interest; or
  - (c) operate as a breach of covenant or condition against alienation; or
  - (d) give rise to any forfeiture or irritancy; or
  - (e) invalidate or discharge any contract or security; or
  - (f) operate so as to merge any leasehold interest (being the interest of the lessee of land under a lease or the interest of the sublessee of land under a sublease) in the interest of the immediate landlord under the lease or sublease.

*Certain trusteeships not to pass with trust property*

- 25 The powers, responsibilities and duties of any trustee or body of trustees (including where acting in that capacity the Trust) in relation to property held for behoof of or in connection with the Church or any court of the Church, board or committee of the General Assembly, association, fund or scheme of the Church or any congregation, financial board of a congregation, ecclesiastical body or organisation of the Church under any settlement or deed of trust, gift or appointment, whether granted inter vivos or mortis causa, shall continue to be exercisable and performed by the trustee or body of trustees for the time being of that settlement or deed of trust, gift or appointment notwithstanding any transfer to and vesting of such property in the Investors Trust or the General Trustees by virtue of section 22 or 23 of this Order.

*Continuation of byelaws and regulations*

- 26 On and after the appointed day all byelaws and regulations made by the General Assembly in respect of any heritable property and moveable property held by the Trust shall, until altered or revoked, continue to apply and have effect with respect to that property to the same extent and effect as if this Order had not been passed and shall be operated in relation to that property by the Investors Trust or the General

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Trustees as the case may be as if any references to the Trust in such byelaws and regulations were references to the Investors Trust or to the General Trustees.

*Investors Trust and General Trustees may receive gifts, bequests, etc., on behalf of Church*

- 27 In the event of the Church, or any court of the Church or any board or committee of the General Assembly or any association, fund or scheme of the Church or any congregation, financial board of a congregation or other ecclesiastical body or organisation of the Church being or becoming entitled to any gift, legacy or bequest or to payment of any capital sum, or to payment of the income of any capital sum, or any annuity or annual payment it shall be competent for the Investors Trust or the General Trustees to receive such gift, legacy or bequest or such capital sum or such income, annuity or annual payment on behalf of the Church or such court, board, committee, association, fund or scheme, or such congregation, financial board of a congregation or such other ecclesiastical body or organisation of the Church as the case may be and by the hand of the treasurer or the secretary of the Investors Trust or the treasurer or the clerk of the General Trustees to grant a receipt, discharge or other writing therefor and a receipt, discharge or other writing so granted in favour of any person or persons paying or transferring to the Investors Trust or the General Trustees any such gift, legacy or bequest or making payment of such capital sum or of such income, annuity or annual payment shall be a full and complete discharge to such person or persons who shall have no concern with the application of such gift, legacy or bequest or capital sum or of such income, annuity or annual payment.

*Trustees to be entitled to transfer to Investors Trust property or funds held for behoof of Church, etc*

- 28 (1) This section applies where a trustee or body of trustees shall hold any property or funds for behoof of or in connection with the Church or any court of the Church or any board or committee of the General Assembly or any association, fund or scheme of the Church or any congregation, financial board of a congregation, ecclesiastical body or organisation of the Church under any settlement or deed of trust, gift or appointment, whether granted *inter vivos* or *mortis causa*.
- (2) Where a trustee or body of trustees acting for the time being under such a settlement or deed of trust, gift or appointment shall desire to be relieved of the trust thereby constituted or created or of the whole or a part of the property or funds of such trust it shall be competent for such trustee or body of trustees, unless expressly prohibited by the terms of such settlement or deed of trust, gift or appointment, to denude himself or themselves of such trust, property or funds and to pay or transfer and convey the whole property or funds held thereunder or comprising such part to and in favour of the Investors Trust to be held by the Investors Trust for the same ends, uses and purposes as such property or funds was or were held prior to the date of such payment or transfer and conveyance.
- (3) Upon payment or transfer and conveyance under subsection (2) of this section being completed, the trustee or body of trustees making the same shall be fully exonerated, released and discharged of the trust constituted or created by such settlement or deed of trust, gift or appointment as aforesaid by any receipt, discharge, release or other writing to be granted by the Investors Trust under their hand and seal to and in favour of such trustee or trustees in respect of any property or funds paid, transferred or conveyed by him or them as aforesaid.

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- (4) Notwithstanding anything contained in any such settlement or deed of trust, gift or appointment, whether granted *inter vivos* or *mortis causa*, any such trustee or body of trustees (including the Investors Trust consequent upon its assumption of trusteeship of any trust in terms of subsection (2) of this section) may from time to time contribute the whole or any part of the property or funds held as aforesaid to any fund for the time being held or maintained by the Investors Trust under the provisions of section 32 (Power to categorise, etc., and appropriate, etc., property) of this Order.
- (5) In the administration of any trust, the whole or any part of the property or funds of which has been contributed to any fund of the Investors Trust, all sums distributed from that fund as income shall be treated as income of the trust, and all sums distributed on withdrawal from or on the winding up of that fund shall, unless specifically designated by the General Assembly as income, be treated as capital of the trust.
- (6) The contribution to or deposit in a fund of the Investors Trust of the whole or any part of any property or funds to which this section is applicable shall for all purposes be an authorised investment of such assets.

*Power to transfer property from one body to another*

- 29 The General Trustees, the Trust and the Investors Trust shall have power to transfer heritable property and moveable property to each other provided that any property so transferred shall, after any such transfer, be held for the same ends, uses and purposes as those for which they had been held prior to such transfer.