

[10 EDW. 7 & *Sidlaw Sanatorium (Transfer) Order* [Ch. civ.]
1 GEO. 5.] *Confirmation Act, 1910.*



CHAPTER civ.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Sidlaw Sanatorium. A.D. 1910.
[3rd August 1910.]

WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict.
c. 47.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed. Confirmation
of Order in
schedule.

2. This Act may be cited as the Sidlaw Sanatorium (Transfer) Order Confirmation Act 1910. Short title.

A.D. 1910.

SCHEDULE.

SIDLAW SANATORIUM (TRANSFER).

Provisional Order to confirm an Agreement between the Trustees and Executive Committee of the Sidlaw Sanatorium for Consumption and the Corporation of the Dundee Royal Infirmary for the transfer to the latter of the Sidlaw Sanatorium for Consumption with its equipment and endowment and for other purposes.

WHEREAS the Sidlaw Sanatorium for Consumption originally designated the Dundee Sanatorium for Consumption (herein-after called "the Sanatorium") was established at Auchterhouse in the county of Forfar for the treatment of patients affected with consumption or kindred diseases and a Society for the establishment and maintenance thereof (herein-after called "the Society") was formed in the year one thousand eight hundred and ninety-nine:

And whereas the Society was constituted under and by virtue of a deed entitled "The Constitution of the Society in aid of persons afflicted with Consumption in Dundee and district" dated the twelfth day of February one thousand nine hundred (herein-after called "the deed of constitution"):

And whereas the land at Auchterhouse upon which the Sanatorium is erected and the Sanatorium and other erections built thereon as also all the funds and property of the Society including an endowment fund contributed by various donors for the purposes and objects of the Society are in terms of the provisions of the deed of constitution vested in certain persons called the trustees of the Sanatorium:

And whereas the control management and administration of the affairs of the Society are in terms of the provisions of the deed of constitution vested in certain persons called the executive committee of the Sanatorium:

And whereas the income from the said endowment fund together with the annual subscriptions from subscribers to the funds of the Sanatorium and the fees recovered from patients

receiving treatment in the Sanatorium have proved inadequate to meet the cost of carrying on the work of the Society and in consequence the Sanatorium was closed on or about the thirty-first day of January one thousand nine hundred and ten: A.D. 1910.

And whereas the Dundee Royal Infirmary (herein-after called "the Corporation") was incorporated by Royal Charter granted by His late Majesty King George the Third under the seal appointed by the Treaty of Union to be kept and used in Scotland in place of the Great Seal thereof dated the eighth and written to the seal and registered and sealed on the twenty-eighth both days of May one thousand eight hundred and nineteen and two supplementary Royal Charters granted by Her late Majesty Queen Victoria under the said seal the one dated the twenty-eighth day of March and written to the seal and registered and sealed on the sixteenth day of April one thousand eight hundred and seventy-seven and the other dated the eighth and written to the seal and registered and sealed on the seventeenth both days of August one thousand eight hundred and ninety-eight with the powers privileges and authorities and subject to the declarations therein set forth:

And whereas the trustees of the Sanatorium with the consent and concurrence of and by the authority of the executive committee of the Sanatorium have agreed to transfer and make over absolutely to the Corporation (first) the said land at Auchterhouse together with the whole parts privileges and pertinents thereof with the Sanatorium and the whole buildings and other erections thereon and the whole furniture furnishings and equipment therein and thereat (all herein-after called "the said Sanatorium and equipment") and (second) the aforesaid endowment fund together with the whole investments and moneys comprising the same (herein-after called "the said endowment fund") on the terms and conditions and subject to the provisions specified and contained in the agreement entered into between the trustees of the Sanatorium of the first part the executive committee of the Sanatorium of the second part and the Corporation of the third part set forth in the schedule hereto:

And whereas it is expedient that the said agreement should be sanctioned and confirmed and that the other provisions in this Order contained should be enacted:

A.D. 1910.

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—

Short title.

1. This Order may be cited as the Sidlaw Sanatorium (Transfer) Order 1910.

Confirmation of agreement for transfer to and vesting of Sanatorium and equipment and endowment fund in Corporation.

2. The agreement entered into and executed by and between the trustees of the Sanatorium of the first part the executive committee of the Sanatorium of the second part and the Corporation of the third part as set forth in the schedule to this Order is hereby sanctioned and confirmed and made binding on the said trustees and executive committee and the Corporation respectively and when and after the said Sanatorium and equipment and the said endowment fund have been transferred assigned disposed conveyed and made over absolutely to the Corporation as provided for by the said agreement the said Sanatorium and equipment and the said endowment fund shall vest in and be held and administered by the Corporation for the purposes and subject to the provisions of the said agreement.

Dissolution of Society.

3. On the completion of the transfer of the said Sanatorium and equipment and the said endowment fund to the Corporation as provided for by the said agreement the Society constituted by the deed of constitution shall be dissolved and the trustees and the executive committee and the honorary secretary and the honorary treasurer thereof shall cease to hold office and shall be released and discharged from and indemnified against all claims demands liabilities and obligations arising out of or attached to the office of trustee or member of the executive committee or honorary secretary or honorary treasurer of the Sanatorium.

Costs of Order.

4. The costs charges and expenses of and incidental to the preparing applying for obtaining passing and confirming of this Order or otherwise in relation thereto shall be paid under and in terms of the said agreement hereby confirmed.

The SCHEDULE referred to in the foregoing Order.

A.D. 1910.

MINUTE OF AGREEMENT between and among ALEXANDER MONCUR Esquire manufacturer Dundee JAMES URQUHART Esquire Lord Provost of Dundee GEORGE ALEXANDER JOHNSTON Esquire senior bailie of Dundee WILLIAM MACKENZIE Esquire President of the Dundee Chamber of Commerce and THOMAS DALL SMIBERT Esquire Lord Dean of Guild of Dundee trustees of the Sidlaw Sanatorium for Consumption (herein-after called "the First Parties") of the first part the said JAMES URQUHART Lord Provost of Dundee ALEXANDER MATHEWSON Esquire Ex-Lord Provost of Dundee ISAAC JULIUS WEINBERG Esquire Fernbrae Dundee WILLIAM HUNTER Esquire Ex-Lord Provost of Dundee FREDERICK BOWER SHARP Esquire spinner Dundee WILLIAM DOIG Esquire chemist Dundee WILLIAM RITCHIE SHARP Esquire spinner Dundee ALEXANDER BRUCE GILROY Esquire spinner Dundee THOMAS HENRY SMITH Esquire spinner Dundee GEORGE OGILVIE Esquire solicitor Dundee ALEXANDER CAMPBELL Esquire M.D. Dundee DAVID MACEWAN Esquire M.D. Dundee CHARLES TEMPLEMAN Esquire M.D. Dundee ALEXANDER HUTTON Esquire retired banker Dundee the said ALEXANDER MONCUR Esquire manufacturer Dundee and CHARLES FREDERICK HENDERSON Esquire manufacturer Dundee being the executive committee of the said Sidlaw Sanatorium for Consumption (herein-after called "the Second Parties") of the second part and the Corporation of the Dundee Royal Infirmary (herein-after called "the Third Parties") of the third part.

WHEREAS the Sidlaw Sanatorium for Consumption originally designated the "Dundee Sanatorium for Consumption" was established for the treatment of patients affected with consumption or kindred diseases in or about the year eighteen hundred and ninety-nine the money for the erection of the Sanatorium buildings having been contributed by the late Alexander Hay Moncur Esquire jute spinner and manufacturer Dundee and Ex-Provost of the city of Dundee and the land at Auchterhouse in the county of Forfar on which the said Sanatorium buildings were erected having been gifted by the late Right Honourable David William Stanley Ogilvy Earl of Airlie:

A.D. 1910.

And whereas the First Parties are the owners of the said land at Auchterhouse which is particularly specified and described in the Schedule No. 1 annexed and subscribed as relative hereto in virtue of a deed of gift dated the fourteenth day of May and recorded in the division of the General Register of Sasines applicable to the county of Forfar on the twenty-fifth day of July both in the year nineteen hundred granted by the said Right Honourable David William Stanley Ogilvy Earl of Airlie in favour of the said Alexander Hay Moncur the said Alexander Moncur the said William Hunter then Lord Provost of Dundee the said William Doig then senior bailie of Dundee William Brown Robertson then dean of guild of Dundee and Robert Bogle Don then President of the Dundee Chamber of Commerce and the successors in office of the said Lord Provost senior bailie dean of guild and president all as trustees for and on behalf of the said Sanatorium and to and in favour of the successors of the said trustees and of the Sanatorium and other erections built thereon:

And whereas contemporaneously with the establishment of the said Sanatorium a society was formed for its establishment and maintenance conform to constitution subscribed by the said Alexander Hay Moncur as chairman and by Sir Thomas Thornton as honorary secretary of the said Society and dated twelfth February nineteen hundred whereby it was inter alia provided that the funds and property of the Society should be invested in the names of the said Alexander Hay Moncur and Alexander Moncur who should hold office until death or resignation and the Lord Provost of Dundee the senior magistrate of Dundee the President of the Dundee Chamber of Commerce and the dean of guild of Dundee all for the time being And whereby it was provided that the trustees should apply and invest the funds of the Society under the authority of and as required from time to time by an executive committee of the Society to be appointed for the purpose and should have and enjoy all the powers and immunities of gratuitous trustees:

And whereas by the said constitution it was provided that the Society should be held to be composed and constituted of donors of not less than twenty-five pounds and annual subscribers of not less than ten shillings to the funds of the Sanatorium and that the said executive committee should control manage and administer the affairs of the Society receive administer and dispose of its capital or revenue of whatever nature provide and enter into contracts or other suitable arrangements for the acquisition of lands and buildings or both and the erection equipment and maintenance of the Sanatorium:

And whereas the First Parties are the present trustees and the Second Parties are the present executive committee of the said Sanatorium:

And whereas an endowment fund contributed by various donors for the purposes or objects of the Society is vested in the names of the First Parties the revenue from which has been applied for the purposes of the said Sanatorium under the authority of the Second Parties : A.D. 1910.

And whereas the investments on which the said endowment fund is invested as at the date of this agreement are set out in the statement annexed as Schedule No. 2 to this agreement :

And whereas the income from the endowment fund together with the annual subscriptions and the fees recovered from patients receiving treatment in the Sanatorium have proved inadequate to meet the cost of carrying on the work of the Society and in consequence the Sanatorium was closed on or about thirty-first January nineteen hundred and ten :

And whereas in these circumstances an agreement has been come to whereby the First Parties with the consent and concurrence of and by the authority of the Second Parties have agreed on the terms and conditions and subject to the provisions herein-after mentioned to transfer and make over absolutely to the Third Parties (first) the said land at Auchterhouse specified and described in the Schedule No. 1 hereto together with the whole parts privileges and pertinents thereof with the Sanatorium and whole buildings and other erections thereon and the whole furniture furnishings and equipment therein and thereat all herein-after referred to as "the said Sanatorium and equipment" and (second) the foresaid endowment fund together with the whole investments and moneys comprising the same herein-after referred to as "the said endowment fund" :

And whereas the said Alexander Moncur only child of the said deceased Alexander Hay Moncur and the surviving donors and subscribers to the said endowment fund have expressed their approval of the arrangements set forth and expressed in this agreement :

And whereas it is right and proper that the agreement between the parties and the terms and conditions of the transfer and the various incidents attending the same should be reduced to writing Therefore the parties have agreed and do hereby agree as follows videlicet :—

Primo.—The First Parties with the special advice consent and concurrence and by and with the authority of the Second Parties shall transfer assign dispoise convey and make over absolutely without any price to the Third Parties and the Third Parties shall accept and take over (first) the said Sanatorium and equipment and (second) the said endowment fund.

A.D. 1910.

Secundo.—The Third Parties shall continue the work of the said Sanatorium for a period of ten years at least from and after the date of entry herein-after provided for but nothing herein contained shall import any obligation on the Third Parties to continue the said work for a longer period. The Third Parties shall reserve twenty beds in the Sanatorium for adult pulmonary phthisical male and female patients the remaining beds in the Sanatorium to be used for children suffering from tubercular disease.

Tertio.—The rights of donors in respect of donations to the endowment fund of the Sanatorium shall be reserved and in particular there shall be reserved to each of the donors of endowed beds seven in number the right of nominating one patient and the Third Parties undertake to find accommodation in the Sanatorium for the patients so nominated. The beds occupied by patients nominated by donors shall be included in and shall not be in addition to the twenty beds referred to in Article Secundo hereof. The donors of endowed beds above referred to are (first) Robert Fleming Esquire merchant Dundee and London (second) Edward Cox Esquire of Cardean merchant Dundee (third) Miss Agnes Lawson Balgavies by Forfar (fourth) Frederick Bower Sharp Esquire merchant Dundee (fifth) Alexander Hay Moncur Esquire (now deceased) (sixth) Miss Helen Halyburton Symers St. Helens Dundee (now deceased) (seventh) Mrs. Agnes Sherwood or Christie Broughty Ferry (now deceased). The Third Parties shall also be bound to keep separate accounts showing their intromissions with the income of the said endowment fund and they also undertake and bind and oblige themselves that the capital of the said endowment fund as the same may be handed over to them shall be kept intact and separate from the endowment funds of the Dundee Royal Infirmary in all time coming.

Quarto.—The date of the Third Parties' entry to the said Sanatorium and equipment shall be the date on which the Parliamentary sanction after-mentioned is obtained and on the same date the said endowment fund and its investments shall be made over to them. The First Parties shall keep all the existing fire policies in force up to the date of entry and the same shall immediately on the execution hereof be endorsed so as to cover the interest of the Third Parties in the subjects assured.

Quinto.—The Third Parties shall be bound to pay and free and relieve the First and Second Parties of all public parochial and local burdens and proportions thereof from and after the said date of entry as well as of the proportion of the nominal feu duty payable to the Superior if asked and also of all casualties compositions or periodical payments whatsoever payable subsequent to the said date of entry the First and Second Parties relieving the Third Parties of all such due at or prior to the said date of entry.

Sexto.—The Third Parties shall take the First Parties' title as it stands and since no burdens affecting the subjects have been created by the First or Second Parties they shall not be bound to furnish searches of incumbrances nor to purge the said subjects of any incumbrances which may be disclosed by any search procured by the Third Parties.

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Septimo.—On the parliamentary sanction after-mentioned being obtained the First Parties shall with the consent and concurrence of the Second Parties immediately execute and deliver to the Third Parties a disposition and conveyance in favour of the Third Parties of the said Sanatorium and equipment but always with and under and subject to the whole burdens conditions provisions stipulations obligations restrictions prohibitions and others specified and contained in the title to the said subjects or otherwise affecting the same The said disposition shall contain a clause of warrandice by the First Parties from their own proper facts and deeds allenary The Second Parties shall grant no warrandice whatever The said disposition and conveyance shall contain all other usual and necessary clauses The First Parties shall with the consent and concurrence of the Second Parties also execute and deliver to the Third Parties all dispositions assignations conveyances transfers or other deeds or writings necessary for transferring to the Third Parties the said endowment fund and the investments in which it has been laid out Such deeds shall also contain where appropriate a clause of warrandice on the part of the First Parties from their own proper facts and deeds allenary but no warrandice will be granted or shall be implied against the Second Parties.

Octavo.—All expenses that have been or may be incurred by the First and Second Parties in connexion with the negotiations leading up to this agreement or in connexion with this agreement or incidental thereto and all expenses that may be incurred in carrying the same into effect including the expense of obtaining parliamentary sanction to this agreement and the expenses of transferring to the Third Parties the said Sanatorium and equipment and endowment fund and the securities upon which the same is invested as also all debts due by the First and Second Parties in so far as the other funds of the Sanatorium are insufficient to meet the same shall be paid out of the income of the said endowment fund and in the event of the income accrued on the said endowment fund at the date when the same is transferred to the Third Parties being insufficient to meet said expenses and others the Third Parties shall be bound to pay the same out of the first and readiest income accruing after said date.

Nono.—This agreement is made subject to the sanction of Parliament and to such alterations and modifications as the Secretary for

A.D. 1910. Scotland or Parliament may think fit to make thereon but if the Secretary for Scotland or Parliament make any material alterations or modifications on this agreement it shall be competent to either the First and Second Parties or the Third Parties to abandon or withdraw from the same.

Decimo.—All questions and differences which may arise between the parties as to the true intent and meaning of these presents or the implement thereof are hereby submitted and referred to the amicable decision final sentence and decree arbitral of James Ferguson Esquire K.C. sheriff of Forfarshire whom failing to an arbiter to be appointed by the sheriff of the county of Forfar whose decision shall be final and binding upon all parties.

Ultimo.—All the parties hereto consent to the registration hereof for preservation and execution.

In witness whereof

SCHEDULES referred to in the foregoing Agreement.

SCHEDULE No. 1.

All and whole that piece of ground consisting of twenty-one acres ten poles or thereby imperial measure part of the Hill of Auchterhouse and part of the Moor of Greenford in the parish of Auchterhouse and county of Forfar all as delineated and coloured red on the plan or sketch thereof annexed and signed as relative to the deed of gift herein-after mentioned bounded the said piece of ground on all sides by land belonging to the Right Honourable David William Stanley Ogilvy Earl of Airlie Reserving always to the said Earl of Airlie and his heirs and successors the whole coal limestone and mines and minerals other than freestone and slate within the bounds of the piece of ground hereby described and full power liberty and privilege to dig for work win and carry away the same But always with and under the burdens conditions provisions reservations declarations and prohibitions irritant and resolute clauses and others specified and contained in a deed of gift granted by the said Earl of Airlie in favour of Alexander Hay Moncur manufacturer in Dundee Alexander Moncur manufacturer in Dundee William Hunter Lord Provost of Dundee William Doig senior bailie of Dundee William Brown Robertson dean of guild of Dundee and Robert Bogle Don president of the Dundee Chamber of Commerce

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and the successors in office of the said Lord Provost senior bailie dean of guild and president all as trustees for and on behalf of the Dundee Sanatorium for Consumption and kindred diseases and to the successors of the said trustees dated the fourteenth day of May and recorded in the division of the General Register of Sasines applicable to the county of Forfar the twenty-fifth day of July both in the year nineteen hundred. A.D. 1910.

SCHEDULE No. 2.

	£	s.	d.	£	s.	d.
Amount of endowment fund	-	-	-	19,151	0	9
Invested thus:—						
Whitehall Crescent feu duty of 202l. 10s. Cost	-	-	-	5,705	15	0
Whitehall Crescent feu duty of 105l. 16s. 10d. Cost and ex- penses	-	-	-	2,880	12	3
\$10,000 Atchison Topeka and Santa Fé Railway 4 per cent. first mortgage bonds	-	-	-	2,100	0	0
550l. North British Railway Com- pany 3 per cent. debenture stock Cost after part realised	-	-	-	571	14	3
500l. Caledonian Railway Company 4 per cent. debenture stock Cost	-	-	-	624	16	10
Heritable loan at 3½ per cent. on the security of subjects at 38-52 Albert Street and 2-8 Arthur- stone Terrace Dundee	-	-	-	6,000	0	0
Maryfield feu duties 52l. 16s. 6d. Cost	-	-	-	1,267	17	1
Deposit receipt with North of Scot- land and Town and County Bank				0	5	4
				<u>£19,151 0 9</u>		

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