

Draft Order laid before Parliament under section 17(2) of the Charities Act 1993, on 10th April 2003; draft to lie for forty days pursuant to section 6(1) of the Statutory Instruments Act 1946, during which either House of Parliament may resolve that the Order be not made.

DRAFT STATUTORY INSTRUMENTS

2003 No.

CHARITIES

The Charities (The Shrubbery) Order 2003

<i>Made</i>	- - - -	2003
<i>Coming into force</i>	- -	2003

Whereas the Charity Commissioners for England and Wales have, in pursuance of section 17(1) of the Charities Act 1993 (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 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, 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 17(2) of the Charities Act 1993, the Secretary of State hereby makes the following Order:—

1. This Order may be cited as the Charities (The Shrubbery) Order 2003 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
2003

Parliamentary Under-Secretary of State

(1) 1993 c. 10.
(2) 1946 c. 36.

APPENDIX

SCHEME FOR THE ADMINISTRATION OF THE CHARITY KNOWN AS THE SHRUBBERY

Whereas the Charity known as The Shrubbery (“the Charity”) is now regulated by section 86 of the Essex Act 1987⁽³⁾;

And whereas the body corporate called the Southend-on-Sea Borough Council is the Trustee of the Charity and has on behalf of the Charity made application to the Charity Commissioners for England and Wales (“the Commissioners”) for a Scheme for the administration thereof;

And whereas it appears to the Commissioners that a Scheme should be established for the administration of the Charity but also that it is necessary for the Scheme to alter the provision made by the said Act of 1987;

And whereas in pursuance of section 20 of the Charities Act 1993 public notice of the Commissioners' proposals for this Scheme has been given and no representations have been received in respect thereof;

Now, therefore, the Commissioners in pursuance of section 17(1) of the Charities Act 1993 hereby settle the following Scheme:

SCHEME 1.

1. Administration of Charity. The Charity and the property thereof shall be administered and managed upon the subsisting trusts thereof, as varied or affected by the provisions of this Scheme, by the body corporate called the Southend-on-Sea Borough Council (in this Scheme referred to as “the Trustee”).

2. Application of income. The Trustee shall apply the income of the Charity to the maintenance and upkeep of its property. If and insofar as the income of the Charity cannot, in the opinion of the Trustee, usefully be applied in any year in this manner the Trustee may apply the same in or towards the maintenance of one or more of the following charitable recreation grounds in the County Borough of Southend-on-Sea; namely the Jones Memorial Recreation Ground Trust, Priory Park and Victory Sports Ground;

Provided that no payment shall be made which directly relieves the said body corporate (in its capacity otherwise than as the Trustee of the Charity) or any other body corporate or person or any government department of expenditure which they are under a statutory or other legally enforceable duty to incur.

3. Questions under the Scheme. 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 determined by the Commissioners upon such application made to them for the purpose as they think sufficient.

(3) 1987 c. xx.

Sealed by Order of the Commissioners this day of 2003

L.S.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a Scheme of the Charity Commissioners relating to the Charity known as The Shrubbery. The purpose of the Charity is to hold land for the enjoyment of the public as an open space under the Open Spaces Act 1906.

The Charity is regulated by section 86 of the Essex Act 1987.

The Scheme alters the provision made by that Act of Parliament by permitting the application of available income of the Charity in the maintenance of certain charitable recreation grounds in the Borough of Southend-on-Sea, namely the Jones Memorial Recreation Ground Trust, Priory Park and Victory Sports Ground.