



Whitgift Charities Act 1969

CHAPTER XXXV

ARRANGEMENT OF SECTIONS

- Section
1. Short title and commencement.
 2. Interpretation.
 3. Incorporation of Governors.
 4. Vesting of property in Corporation.
 5. Saving of agreements.
 6. Gifts, etc., to Governors to be gifts, etc., to Corporation.
 7. Provision of old persons' homes, hospitals and schools.
 8. Application of the income of the trust property.
 9. Reserve fund.
 10. Investment.
 11. Saving for schemes.
 12. Costs of Act.

ELIZABETH II



1969 CHAPTER XXXV

act to make further provision with regard to the Whitgift Almshouse Charity in the London Borough of Croydon; to confer further powers on the Governing Body of the Whitgift Educational Foundation and to provide for the incorporation by statute of the said governing body; and for other purposes.

[25th July 1969]

WHEREAS—

In 1596 Archbishop Whitgift founded the hospital of the Trinity in Croydon and drew up statutes for the general government of the foundation which included provision for the education of the children of the parish of Croydon. Accordingly a school building and a house for the schoolmaster were provided as part of the foundation:

In 1856 the Court of Chancery promulgated a scheme for the administration of the said foundation and for the appointment of governors and a scheme made under the Endowed Schools

Acts and confirmed by Order in Council of the Majesty Queen Victoria dated the 15th July 1881 made for the regulation of the said foundation:

1899 c. 33.

(3) The said foundation now comprises the Almshouse Charity in the London Borough of Croydon (hereinafter referred to as "the Almshouse Charity") which was constituted by order made by the Charity Commissioners on the 12th February 1904, under subsection (2) of section 2 of the Board of Education Act 1899, and the Whitgift Educational Foundation (hereinafter referred to as "the Educational Foundation") comprising educational endowment as determined by an order made by the Charity Commissioners on 12th February 1904 of the charity called the Whitgift Foundation in Croydon:

(4) The Almshouse Charity now administers the Whitgift Almshouses in North End, Croydon, in accordance with a scheme (hereinafter referred to as "the 1953 scheme") approved and established by an order made by the Board of Charity Commissioners on the 11th August 1953, as varied by a scheme approved and established by an order made by the Charity Commissioners on the 8th March 1967:

1960 c. 58.

(5) The Educational Foundation administers the Whitgift School in Haling Park, Croydon and Trinity School of Junior Whitgift in Shirley Park, Croydon, in accordance with a scheme established by an order made by the Board of Education on the 9th April 1915 under the Charitable Trusts Acts 1853 to 1925, as altered by schemes established by orders made by the Board of Education on the 5th August 1921, the 17th November 1922, the 6th October 1925, under the said Acts, by schemes established by orders made by the Minister of Education on the 19th April 1948 and the 17th February 1955 under the Charitable Trusts Acts 1853 to 1925, and by a scheme established by an order made by the Secretary of State for Education on the 17th February 1964 under the Charities Act 1960:

(6) The Governing body of the Educational Foundation (hereinafter referred to as "the Governors") established by the 1953 scheme the body of Trustees having the control and management of the Almshouse Charity:

(7) It is expedient that the Governors should be empowered for the extension of the purposes of the Almshouse Charity to provide and maintain old persons' homes and for the care of the aged and for the extension of the purposes of the Educational Foundation to acquire or establish or maintain premises and to apply their income for such purposes and for the said almshouses in North End, Croydon, being premises for use as almshouses that the Governors should be empowered to use or permit the same to be used as a museum:

It is expedient that the Governors should be incorporated by Act of Parliament:

It is expedient that the other provisions in this Act be enacted:

The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be so enacted, by the Queen's most Excellent Majesty, by with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, by the authority of the same, as follows:—

(1) This Act may be cited as the Whitgift Charities Act

Short title and commencement.

This Act shall come into operation on the appointed day.

In this Act unless the subject or context otherwise requires—
“the appointed day” means the day two months after the date of the passing of this Act;

Interpretation.

“the almshouses” means the Whitgift Almshouses in North End, Croydon, administered by the Almshouse Charity at the date of the passing of this Act;

“the Almshouse Charity” means the Whitgift Almshouse Charity in the London Borough of Croydon regulated by the scheme made by the Board of Charity Commissioners on the 11th August 1953, as varied by subsequent schemes whether made before or after the passing of this Act;

“the Corporation” means the Corporation constituted by the Act;

“the Educational Foundation” means the Whitgift Educational Foundation regulated by a scheme established by an order made by the Board of Education on the 9th April 1915, as varied by subsequent schemes whether made before or after the passing of this Act;

“the Governors” means the Governing body of the Educational Foundation;

“the Whitgift Charities” means the Almshouse Charity and the Educational Foundation or either of them.

The persons who shall on the appointed day and all other persons who shall from time to time thereafter constitute the Corporation are hereby constituted a body corporate by the name of the Whitgift Foundation with perpetual succession and a common seal.

Vesting of
property in
Corporation.

4.—(1) All the investments and property vested in the persons comprising the Governors or in any of such persons and freehold and leasehold property vested in the Official Custodian for Charities immediately before the appointed day and held by those persons or the Official Custodian upon trust for Whitgift Charities shall be and the same are by virtue of this Act and without any transfer or other instrument vested in the Corporation for all the interest therein of such persons as aforesaid upon the trusts applicable thereto.

(2) From and after the appointed day all investments and other property (including freehold and leasehold property) and any interests therein to which the Whitgift Charities shall be entitled shall be transferred to and vested in the Corporation.

Saving of
agreements.

5. All agreements, awards, contracts, deeds and other instruments and all actions and proceedings which immediately before the appointed day are existing and pending in favour of or against the persons constituting the Governors or any of such persons in relation to the property held by them upon trust for Whitgift Charities may be carried into effect and prosecuted or in favour of or against the Corporation to the same extent and in like manner as if the Corporation instead of the said persons or some of them had been a party to or interested in the same respectively.

Gifts, etc., to
Governors to
be gifts, etc.,
to Corpora-
tion.

6. Any devise, bequest or gift contained in the will or in any instrument of any person having died before or after the passing of this Act or in a deed whether executed before or after the passing of this Act in favour of or directed to be administered by the Governors shall not fail by reason of anything in this Act and shall as from the appointed day take effect in favour of the Corporation.

Provision of
old persons'
homes,
hospitals and
schools.

7.—(1) The Governors may, if they think fit, provide and maintain for the extension of the purposes of the Whitgift Charity one or more homes for old persons in addition to the almshouses (subject to the approval of the Charity Commissioners) and one or more hospitals for the care of the aged and for the extension of the purposes of the Educational Foundation one or more additional schools for boys or girls or both boys and girls.

(2) If in the opinion of the Governors the almshouses or any of them at any time hereafter become unsuitable for use as almshouses the Governors may use or permit the same to be used as schools.

Application
of the income
of the trust
property.

8.—(1) All moneys, investments and property held by the Corporation upon trust for the general purposes of the Whitgift Charities (other than freehold or leasehold property occupied for the purposes of the Whitgift Charities) shall be

moneys, investments and other such property from time to time to be paid or transferred to or vested in the Corporation to be held by the Corporation upon trust as aforesaid and the moneys, investments and property from time to time representing the same (hereafter in this Act called "the trust property") shall be held by the Corporation upon the trusts and subject to the powers hereinafter mentioned.

(1) The Governors shall apply so much of the income of the property in any year as is required in that year for the following purposes:—

(a) in defraying the cost of maintaining, repairing, extending and improving the schools, almshouses, old persons' homes and hospitals (including the furniture, fixtures, fittings and equipment therein) for the time being forming part of the Whitgift Charities and of maintaining and improving the lands held by them for the purposes thereof and of acquiring other land for those purposes;

(b) in defraying the cost of insurance and all other charges and outgoings payable in respect of the property of the Whitgift Charities;

(c) in paying the salaries and wages of the staff employed by them and making other payments in respect of the staff;

(d) in paying or contributing to entrance or tuition fees, excursions (including leaving exhibitions) or bursaries for pupils of the said schools and in making grants to pupils or former pupils of the said schools towards their further education;

(e) in making payments for the benefit of the almspeople of the Almshouse Charity or inmates of the said old persons' homes or hospitals, but so that the income of the trust property shall in no case be applied in relief of rates, taxes or other public funds;

(f) if and so long as the almshouses shall be used as a museum in the maintenance of the said museum;

(g) in defraying all the proper costs, charges and expenses of and incidental to the administration and management of the Whitgift Charities.

The Governors shall have power to apply the surplus (if any) of the trust property in any year—

(a) in setting apart money for a reserve fund under section 9 (Reserve fund) of this Act;

(b) in or towards the provision or acquisition of schools and old persons' homes or hospitals for the aged in addition

to or (subject to the approval of the Secretary of State or the Charity Commissioners as the case may be) substitution for the schools and old persons' homes the time being vested in the Corporation and in provision of such offices as may be required for administration of the Whitgift Charities and the property;

(c) for such other purposes which are of a wholly charitable nature as may be approved by the Secretary of State or the Charity Commissioners;

and it is hereby declared that the Governors shall have power to accumulate surplus income of the trust property and to make accumulations of income as though they were income arising in the year in which they are expended.

Reserve fund.

9.—(1) Without prejudice to the provision for an extraordinary repair fund contained in the scheme made by the Board of Charity Commissioners on the 11th August 1953 the Governors may, setting apart in any year out of income of the trust property such sums as they think fit, form and maintain a reserve fund for the purpose of meeting any extraordinary claim or demand which may be made upon them or defraying the cost of renewing, repairing, enlarging or improving any schools, almshouses or old persons' homes or hospitals for the time being vested in them.

(2) Any sums so set apart for the formation and maintenance of a reserve fund may, subject to the provisions of section 10 (Investment) of this Act, from time to time be invested and the dividends and interest arising from such investments may be accumulated and subject to the provisions of the said section 10 may be used to accumulate for the credit of the fund.

Investment.

10. In its application to the investment by the Corporation of the trust property (including moneys forming part of a fund established under section 9 (Reserve fund) of this Act) any surplus income of the trust property accumulated under the powers of section 8 (Application of the income of the trust property) of this Act the Trustee Investments Act 1961 shall have effect as if—

1961 c. 62.

(1) in subsection (1) of section 2 for the words "the value at the time of the division" there were substituted the words "the value of the wider-range part of the division bearing to the narrower-range part the proportion of the value of the wider-range part to the value of the narrower-range part";

(2) in paragraph (b) of subsection (3) of section 2 for the words "each part of the fund" there were substituted the words "the wider-range part of the fund";

the wider-range part of the fund is increased by an amount which bears to the amount by which the narrower-range part of the fund is increased the proportion of two to one";

(3) the following paragraph were included in Part III (Wider-range investments) of Schedule 1 to that Act:—

"4. In the purchase of freehold ground rents or freehold or leasehold land messuages, tenements and hereditaments within the United Kingdom".

(1) Save as aforesaid nothing in this Act shall—

Saving for schemes.

(a) affect the provisions of the schemes regulating the Whitgift Charities and in force immediately before the appointed day; or

(b) affect or prejudice the powers of the High Court, the Secretary of State or the Charity Commissioners to make schemes for the regulation of the Whitgift Charities or otherwise in relation thereto.

Any of the provisions of this Act, other than those relating to the incorporation of the Governors, may be altered by a scheme made on the application of the Governors by the High Court or the Secretary of State or the Charity Commissioners in the exercise of their ordinary jurisdiction as if those provisions were not provisions of an Act of Parliament.

The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Governors out of the income of the Whitgift Charities.

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