



Foyle and Londonderry College Act 1976

CHAPTER xviii

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ELIZABETH II



1976 CHAPTER xviii

An Act to provide for the amalgamation of Foyle College
and Londonderry High School; and for other purposes.
[22nd July 1976]

WHEREAS—

(1) By the Foyle College Act 1874 provision was made for the 1874 c. 79. better management and regulation of Foyle College, formerly the Free School of Londonderry, founded in 1617, which was subsequently amalgamated with the Londonderry Academical Institution, by the Foyle College Act 1896, as one educational 1896 c. cxxxi. institution:

(2) Londonderry High School, comprising an amalgamation of Victoria High School founded in 1877 and St. Lurach's School, together with pupils from the former Strand House School founded in 1860, was founded and incorporated in 1922 under the Companies Acts 1908 to 1917 with the principal object of carrying on a school:

(3) The respective governing bodies of Foyle College and Londonderry High School have decided that it would be to the advantage of both and in the interest of education in Londonderry that the two should be amalgamated into one institution under one governing body and the work of the said college and school conducted and their property managed in common:

(4) It is expedient that Foyle College and Londonderry High School should be incorporated in a new corporate body with the object, constitution and powers in this Act described:

(5) 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 it enacted, by the Queen'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:—

PART I

PRELIMINARY

Short title and commencement.

1.—(1) This Act may be cited as the Foyle and Londonderry College Act 1976.

(2) This Act shall come into operation on the appointed day.

Interpretation.

2.—(1) In this Act unless the context otherwise requires—

“the appointed day” means 1st August, 1976;

“the appropriate officer” means an officer of the school authorised by the Governors to act in connection with the matter in question;

“financial year” means a period of twelve months ending on 31st March or such other date as the Governors may determine;

“the former institutions” means the Governors of Foyle College incorporated under the Foyle College Act 1896 and of Londonderry High School incorporated under the Companies Acts 1908 to 1917;

“the Governors” means the Governors of Foyle and Londonderry College constituted by this Act;

“regulations” means the regulations set out in Schedule 1 and regulations made under this Act;

“the school” means the institution known as Foyle and Londonderry College.

1896 c. cxxxi.

1889 c. 63.

1954 c. 33
(N.I.).

(2) The Interpretation Act 1889 shall not apply and, subject to subsection (1) of this section, the Interpretation Act (Northern Ireland) 1954 shall apply to this Act and the regulations as if this Act and the regulations were enactments within the meaning of the said Act of 1954.

PART II
INCORPORATION

3. There shall be a governing body for the management of the school to be called "the Governors of Foyle and Londonderry College" who by that name shall be a body corporate with perpetual succession and a common seal and may by and in the same name sue and be sued and do all things incidental or appertaining to a body corporate. Incorporation.

4. The object of the school shall be to make provision for the education of pupils subject to the provisions of this Act and the regulations made thereunder. Object of school.

5. For the attainment of the object of the school but not further or otherwise the Governors shall have the following powers, namely, to— Powers of Governors.

- (1) dispose of any land or any personal estate or property (including moneys secured on mortgage of or charged upon any land) vested in the Governors or which shall hereafter be vested in or acquired by the Governors or any part thereof and do and execute all such acts, deeds, matters and things as may be necessary for effectuating and completing any such sale, mortgage, charge, letting, surrender, exchange or other dealing;
- (2) purchase, take on lease in fee farm or in exchange or otherwise acquire any real and personal property and any rights and privileges and improve or develop the property of the Governors and construct, maintain and alter any buildings;
- (3) take or hold mortgages, liens or charges to secure payment of the purchase price or any unpaid balance of the purchase price of any part of the property of the Governors of whatsoever kind sold by the Governors or any money due to the Governors from purchasers and others;
- (4) accept, receive and retain legacies, devises, gifts, grants, annuities, allowances and other benefits and consistently with the object of the school undertake and perform any services or conditions attached to the acceptance, receipt or retention thereof;
- (5) borrow or raise or secure the payment of money for any purpose and in any manner approved by the Governors and secure the same or the repayment or performance of any debt, liability, contract, guarantee or other repayment incurred or to be entered into by the Governors and so that no lender shall be concerned to see for what purpose any money is raised or as to the application thereof;

PART II
—cont.

- (6) make appeals, advertise and conduct such other lawful activities as may be appropriate to raise funds for the school, or to make known its existence, purposes or work;
- (7) employ such persons as may be required for the purposes of the school;
- (8) determine, demand and receive fees, subscriptions and deposits;
- (9) appoint any person being a bank, trust corporation or member of a recognised stock exchange or of a professional body to accept and hold in trust for the Governors any property belonging to the Governors or in which they are interested and execute and do all such deeds, acts and things as may be requisite in relation to any such trust and provide for the remuneration of such trustee or trustees;
- (10) promote or oppose any Bill, measure, order, scheme or application in Parliament or the Parliament of Northern Ireland or the Northern Ireland Assembly or before any government department or court, authority or tribunal and prosecute or defend any legal proceedings;
- (11) combine, amalgamate or merge with any other body having charitable objects substantially similar to that of the school;
- (12) enter into and carry into effect any agreement or arrangement with any national or local authority or any institution, association or other body (whether incorporated or not) for co-operating with or assisting or being assisted by such authority, institution, association or other body in any manner and for any purpose which is consonant with the object of the school;
- (13) establish, maintain and administer unemployment, benevolent, superannuation, death benefit and provident funds for or in respect of employees and charitable funds;
- (14) do all such other things as shall be necessary for the attainment of the object of the school.

Power to
amend Act.

6.—(1) Any provision of this Act may be altered from time to time by order made by the Department of Finance for Northern Ireland acting in its capacity as charity authority for Northern Ireland upon the application of the Governors but not otherwise.

1958 c. 18
(N.I.).

(2) An order under this section shall be made by statutory rule for the purposes of the Statutory Rules Act (Northern Ireland) 1958 and shall be subject to negative resolution; and during the interim period (as defined by subsection (4) of section 1 of the Northern Ireland Act 1974) an order made under this section shall be subject to annulment in pursuance of a resolution of

1974 c. 28.

either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

PART II
—cont.
1946 c. 36.

7.—(1) Subject to the provisions of this Act all assets of the former institutions which immediately before the appointed day belonged to or were vested in or exercisable by either of them shall be by virtue of this Act without any conveyance, transfer or other instrument transferred to, vested in or exercisable by the Governors for all the estate and interest therein belonging to that one of the former institutions.

Transfer of property to Governors.

(2) The production of a copy of this Act printed by the Queen's Printer shall on and after the appointed day be conclusive evidence in all courts and proceedings of the transfer to and vesting in the Governors under this section.

8. All debts and liabilities of the former institutions shall, by virtue of this Act, be transferred and attached to the Governors and shall be discharged and satisfied by the Governors.

Transfer of liabilities.

9. All agreements, awards, contracts, deeds and other instruments which immediately before the appointed day were existing in favour of or against either of the former institutions shall continue and may be carried into effect and enforced by or in favour of or against the Governors to the same extent or in like manner as if the Governors instead of that one of the former institutions had been party to or interested in the same respectively.

Saving for agreements, deeds, etc.

10. Any bequest, gift, trust or other benefit in favour of or connected with either of the former institutions shall be read and have effect as if the Governors had been named or referred to therein instead of that one of the former institutions whether such bequest, gift, trust or other benefit is made, regulated or constituted by any will, settlement, scheme, arrangement, order of the Department of Finance for Northern Ireland acting in its capacity as charity authority for Northern Ireland, order of court, Act of Parliament or in any other manner, and whether made or executed or taking effect before or after the appointed day and so that—

Construction of bequests, etc., in favour of former institutions.

- (1) a reference to the governing body of one of the former institutions shall have effect as a reference to the Governors;
- (2) a reference to having been a member or employee of one of the former institutions shall have effect as a reference to having been a member or employee of one of the former institutions or of the Governors;
- (3) a reference to a widow, widower, orphan, relative or dependant of a member or employee of one of the former institutions shall have effect as a reference to a widow, widower, orphan, relative or dependant of a member or employee of one of the former institutions or of the Governors;

PART II
—cont.

(4) the receipt in writing of the appropriate officer shall be an effectual discharge for any property transferred or paid to the Governors.

Saving for
actions, etc.

11. All actions and proceedings and causes of action or proceedings which immediately before the appointed day were existing or pending in favour of or against either of the former institutions shall continue and may be continued and prosecuted by or against the Governors to the same extent or in like manner as if the Governors instead of that one of the former institutions had been a party to or concerned in the same respectively.

Application
of property,
funds and
income by
Governors.

12.—(1) All property and funds of either of the former institutions which immediately before the appointed day were held for the general purposes of either of the former institutions may be applied by the Governors in furtherance of the object of the school.

(2) Any property or funds and any income from property or funds which immediately before the appointed day were held on behalf of either of the former institutions for any special purpose shall continue to be held for such special purpose by the Governors and the Governors shall continue to observe so far as possible (subject to any adaptations or variations required in view of change of circumstances) any commemorative conditions attached to any past gifts to either of the former institutions and operative at the appointed day.

(3) All income of the Governors from rentals of leased premises or interest or dividends on stocks or shares or otherwise from property or investments of the Governors or from subscriptions, donations, legacies, devises, contributions, grants, sales of property, appeals, collections, entertainments or other sources not being income allocated by the donors or otherwise made applicable only to special purposes may be applied by the Governors in furtherance of the object of the school.

PART III

PROCEDURAL, TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Regulations.

13.—(1) Subject to the provisions of this Act the Governors shall have power to make, alter and revoke regulations with respect to the management of the school and the government and administration of the affairs of the school, its undertaking, property and income but no such regulation shall—

- (a) affect the object of the school; or
- (b) enable any funds or property belonging to or held by the Governors to be applied for a non-charitable purpose.

(2) No regulation shall be altered or revoked and no new regulation shall take effect until approved by the Governors at the annual general meeting or at a special general meeting of which not less than twenty-one days' written notice has been given specifying that such alteration, revocation or new regulation will be taken into consideration.

PART III
—cont.

(3) The first regulations shall be those set forth in Schedule 1 and they shall continue in force until altered or revoked in accordance with the provisions of this section.

(4) A printed copy of the regulations purporting to be certified by the appropriate officer to be the regulations for the time being in force shall be admissible in all proceedings as prima facie evidence thereof without further proof.

14. Notwithstanding the provisions of Schedule 1 the first Governors shall be those persons named in Schedule 2, and they shall be deemed to have been appointed under the paragraphs of regulation 1 mentioned opposite to their names respectively.

15. No act done at a meeting of the Governors shall be invalid by reason of the subsequent discovery that there was some defect in the appointment or qualification of a person participating in such meeting.

Validity of
acts done at
meetings.

16.—(1) Any instrument which if made by a private person would be required to be under seal shall be under the seal of the Governors and every such instrument shall be signed by one of the Governors and countersigned by the appropriate officer.

Authentication
of documents.

(2) Any document made or issued by or on behalf of or proceeding from the Governors, not required by virtue of subsection (1) of this section to be given under the seal of the Governors, shall be deemed to be duly executed if signed by a Governor authorised to sign by a resolution of the Governors and the appropriate officer, but it shall not be necessary in any legal proceedings to prove that the persons signing any such document were authorised to sign and such authority shall be presumed unless the contrary is proved.

17.—(1) The Governors shall cause to be kept proper books of account with respect to all sums of money received and expended by the Governors and the matters in respect of which the receipt and expenditure take place and the assets and liabilities of the Governors.

Books of
account.

PART III
—cont.

(2) For the purpose of the foregoing subsection, proper books of account shall not be deemed to be kept with respect to the matters aforesaid if there are not kept such books as are necessary to give a true and fair view of the state of the affairs of the school and to explain its transactions.

Audit.

18. Once at least in every financial year the accounts of the school shall be examined and audited by an auditor or auditors to be elected annually at the annual general meeting of the Governors and any previously elected auditor or auditors shall be eligible for re-election:

Provided that a person shall not be qualified to be elected as an auditor under this section unless he is a member or in the case of a firm all the partners therein are members of one or more of the following bodies—

- (a) the Institute of Chartered Accountants in Ireland;
- (b) the Institute of Chartered Accountants in England and Wales;
- (c) the Institute of Chartered Accountants of Scotland;
- (d) the Association of Certified Accountants;
- (e) any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of paragraph (a) of subsection (1) of section 155 of the Companies Act (Northern Ireland) 1960 by the Department of Commerce for Northern Ireland.

1960 c. 22
(N.I.).

Accounts.

19.—(1) The annual accounts of the school shall be laid before the Governors within twelve months from the end of the financial year to which they relate and shall include one or more statements dealing with the income and expenditure and all other movements of funds of the Governors and of trusts administered by the Governors for the preceding financial year and one or more statements dealing with such funds and trusts and the assets and liabilities of the Governors as at the end of the preceding financial year.

(2) The accounts shall give a true and fair view of the state of the affairs of the school at the end of the preceding financial year and of its transactions for that financial year.

(3) The accounts shall be approved by the Governors and signed on their behalf by a Governor authorised to sign by a resolution of the Governors and countersigned by the appropriate officer.

(4) The accounts shall have annexed thereto the report of the auditors, who shall have the right to attend the meeting of the Governors to which the accounts are presented.

20.—(1) (a) The Governors of Foyle College are hereby dissolved on the appointed day.

PART III
—cont.

(b) The enactments mentioned in Schedule 3 are repealed on the appointed day.

Dissolution
of former
institutions.

(2) (a) Londonderry High School is hereby dissolved on the appointed day.

(b) The appropriate officer shall send a copy of this Act printed by the Queen's Printer to the Registrar of Companies for Northern Ireland who shall thereupon strike the name of Londonderry High School from the register of companies.

SCHEDULES

Section 13.

SCHEDULE 1

REGULATIONS

Governors

1. The affairs of the school shall be managed by a governing body consisting of twenty Governors of whom—

- (a) one shall be appointed by The Honourable The Irish Society;
- (b) one shall be appointed by the Chancellor of the New University of Ulster;
- (c) four shall be appointed by the School Parents' Association;
- (d) two shall be appointed by the Foyle College Old Boys' Association;
- (e) two shall be appointed by the Londonderry High School Old Girls' Association;
- (f) two (who may be either lay or ordained) shall be appointed by the Derry Presbytery;
- (g) two (who may be either lay or ordained) shall be appointed by the Diocesan Synod of the Diocese of Derry and Raphoe; and
- (h) six shall be appointed by the foregoing fourteen Governors.

Rotation and elections of Governors

2. At every annual general meeting after the first annual general meeting one-third of the Governors shall retire. The Governors to retire at the second and third annual general meetings shall, unless the Governors otherwise arrange among themselves, be determined by lot. At the fourth annual general meeting, the remainder of the Governors whose names are set out in Schedule 2 shall retire. At every subsequent annual general meeting, the Governors who have been longest in office, ignoring previous terms of office, shall retire. The appointor of a retiring Governor shall appoint a person to fill the vacancy left by such retiring Governor, and subject to regulation 6 of these regulations a retiring Governor shall be eligible for re-appointment.

3. Any vacancy occurring during the term of office of a Governor shall be filled by a person appointed by the appointor of the retiring Governor. Such person shall hold office for the remainder of the term of office of his predecessor, and shall, subject to regulation 6, be eligible for re-appointment. For the purpose of computing the length of his tenure of office for regulation 2, he shall be deemed to have been appointed when his predecessor was appointed.

Powers of the Governors

4. The management of the business and control of the school shall be vested in the Governors who, in addition to the powers and authority expressly conferred upon them, may exercise all such powers and do all such acts and things as may be exercised or done by the school but subject nevertheless to these regulations or any amendments thereto but no regulation shall invalidate any prior act of the Governors which would have been valid if such regulation had not been made.

Without prejudice to the general powers conferred by this regulation and to the other powers and authorities conferred as aforesaid it is hereby expressly declared that the Governors shall be entrusted with the following powers, namely:—

SCH. 1
—cont.

- (a) to pay the costs, charges and expenses preliminary and incidental to the formation and establishment of the school;
- (b) at their discretion to pay for any property or rights acquired by or services rendered to the school;
- (c) to secure the fulfilment of any contracts or engagements entered into by the Governors by mortgage or charge of all or any of the property and rights of the Governors in such manner as they may think fit;
- (d) to appoint and at their discretion remove or suspend such officers and staff as they think fit on such terms and conditions as they may determine;
- (e) to institute, conduct or defend, compound or abandon any legal proceedings by or against the school or its officers or otherwise concerning the affairs of the school and also to compound and allow time for payment or satisfaction of any debts due in any claims or demands by or against the school;
- (f) to make and give receipts, releases and other discharges for money payable to the school and for the claims and demands of the school;
- (g) to make all such regulations as they think proper with regard to—
 - (i) the conduct of the school;
 - (ii) the qualification of teachers and pupils;
 - (iii) the school terms, vacations and fees;
 - (iv) the other affairs and concerns of the school;

and to repeal or alter the same or make others in lieu thereof as may seem expedient provided that the same does not contravene any of the sections of this Act;

- (h) to obtain for the school from the Department of Education for Northern Ireland, the Department of Finance for Northern Ireland or any other public body such aid by way of teachers' salaries, allowances, grants, prizes, provisions for technical, industrial or other special instruction and grants or loans for building or other purposes as may at any time be available for or open to like schools for the pupils thereof and, notwithstanding anything herein contained, to place any or all of their schools or classes in connection with or under the inspection of any such public body as aforesaid and to comply with any rules or regulations for the time being in force respecting schools or pupils receiving such aid.

SCH. 1
—cont.

Proceedings of Governors

5.—(a) Subject to the provisions of these regulations the Governors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, save that the Governors shall meet at least four times in every year, one of which meetings shall be the annual general meeting. Five Governors shall constitute a quorum. Questions arising at any meeting shall be decided by a majority of votes. In case of equality of votes the presiding chairman shall have a second or casting vote.

(b) The Governors shall appoint two of their number as chairman and vice-chairman respectively for their meetings and they shall each hold office until the next annual general meeting but they shall be eligible for re-election so long as they continue to be Governors. If at any meeting neither the chairman nor vice-chairman be present the Governors present shall elect one of their number to preside.

(c) The Governors may appoint a committee or committees to carry into execution any orders, rules or directions of the Governors with respect to the purposes of this Act or to conduct and discharge any business of the Governors which the Governors may deem it expedient to depute or refer to such committee or committees. The Governors may fix a quorum, define the duties and regulate the proceedings of every committee as they may think fit.

Retirement and disqualification of Governors

6.—(a) No person shall be capable of being appointed or re-appointed Governor if at the time of his appointment or re-appointment he has attained the age of seventy.

(b) The Governors may declare that the office of a Governor shall be vacated—

- (i) if he becomes bankrupt or insolvent or compounds with his creditors;
- (ii) if he is found to be suffering from mental disorder;
- (iii) if he is convicted of an indictable offence;
- (iv) if he absents himself from the meetings of Governors for a period of twelve months without special leave of absence from the other Governors.

(c) A Governor may resign by giving to the secretary one month's notice in writing that he resigns his office.

(d) Any act done in good faith by a Governor, whose office is vacated as aforesaid, shall be valid unless, prior to the doing of such act, written notice has been served by or upon the Governors or an entry has been made in the minute book stating that such Governor has ceased to be a Governor.

Principal

SCH. 1
—cont.

7. The Governors shall appoint a Principal of the school on such terms and conditions as they may determine. The Principal for the time being shall be consulted by the Governors in reference to the appointment and dismissal of assistant teachers and servants and shall have the right to submit proposals to the Governors on all matters relating to the educational conduct of the school and shall submit proposals if so required by the Governors.

Secretary

8. The Governors shall appoint a secretary or joint secretaries on such terms and conditions as they may determine.

Minutes

9. The Governors shall cause minutes to be kept—

- (a) of all appointments of officers made by the Governors;
- (b) of the names of the Governors present at each meeting of the Governors and of any committee;
- (c) of all resolutions and proceedings at all meetings of the Governors and of committees.

Notices

10. A notice may be served by the Governors upon any Governor either personally or by sending it through the post addressed to him at his last known address.

Availability of Act, etc.

11. Copies of this Act and all amendments thereto shall be available to the Governors and to all members of the school staff on their request.

Section 14.

SCHEDULE 2

FIRST GOVERNORS

- (a) Commander P. Campbell-Grove, M.V.O.
- (b) Professor F. J. Lelievre, M.A.
- (c) { James H. K. Bond, Esq., J.P.
Mrs. Patricia Gilliland, B.A.
Mrs. Lilian Maconachie.
George P. Turner, Esq., B.A.
- (d) { D. A. E. Roberts, Esq., M.A.
W. A. Aiken, Esq.
- (e) { Miss I. I. M. Anderson.
Mrs. R. Mary Alexander, N.F.U.
- (f) { Rev. J. D. Young, B.A.
S. A. Jack, Esq.
- (g) { Right Rev. R. H. A. Eames, LL.B., Ph.D.
Rev. B. D. A. Hannon, M.A.
- (h) { Professor J. L. McCracken, M.A., Ph.D.
John T. McFarland, Esq., D.L., T.D.
Mrs. Hilary Wilson, M.B.
Miss Mabel R. Colhoun, N.F.U.
Samuel J. Black, Esq.
J. Derek Swain, Esq.

Section 20.

SCHEDULE 3

ENACTMENTS REPEALED

- 1896 c. cxxxi. Foyle College Act 1896.
- 1965 c. i (N.I.) Foyle College (Amendment) Act (Northern Ireland) 1965.

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