

Sealed 12th November 1991

N228(S)
91

County - Lancashire
Place - Bispham
Charities - 1. Durning's Endowed
School (exclusive
of the Poor
Charity, the
Ecclesiastical
Charity and the
Kindred
Charity all of
Richard Durning
2. The said Poor Charity
3. The said Ecclesiastical
Charity
4. The said Kindred
Charity

Legal(Liv)
235,171 A/1

Scheme including appointment of
Trustees and vesting

Adjudged not chargeable
with stamp duty

CHARITY COMMISSION

In the matter of the following Charities at Bispham, in the County of Lancashire :-

1. The Charity called Durning's Endowed School regulated by a Scheme made under the Endowed Schools Acts on the 26th March 1878 as varied and affected by an Order made by the Charity Commissioners on the 27th May 1902, an Order made by the said Commissioners on the 21st March 1905 under the Board of Education Act 1899 s.2(2) and a Scheme made by the Minister of Education on the 25th February 1960 (exclusive of the Poor Charity of Richard Durning, the Ecclesiastical Charity of Richard Durning and the Kindred Charity of Richard Durning, all constituted by the said Order of the Commissioners dated the 21st March 1905;
2. The said Poor Charity of Richard Durning;
3. The said Ecclesiastical Charity of Richard Durning;
4. The said Kindred Charity of Richard Durning; and

In the matter of the Charities Act 1960.

THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES HEREBY ORDER that the following Scheme be approved and established as the Scheme for the regulation of the above-mentioned Charities:-

S C H E M E

1. Administration of Charities. (1) The above-mentioned Charities and the property thereof shall be administered and managed subject to and in accordance with the provisions of this Scheme.

(2) The Charities numbered 1, 2 and 4 above shall be administered and managed together as one Charity under the title of Richard Durning's School Charity (hereinafter referred to as "the School Charity" by the body of Trustees hereinafter constituted for that Charity.

(3) The Charity numbered 3 above shall be administered and managed by the Managing Trustees hereinafter appointed for that Charity.

(4) The School Charity and the said Charity numbered 3 are hereinafter referred to together as the Charities.

2. Endowment of the said Charity numbered 3. (1) The Trustees of the School Charity shall replace the endowment of the Charity numbered 3 above which the former trustees of the said Charity numbered 1 appropriated and in lieu thereof made annual payments for the purposes of the said Charity numbered 3.

(2) Such replacement shall be effected by payment to the Custodian Trustee hereinafter mentioned of the sum of £200, subject to the condition that the said sum shall be invested as permanent endowment of the said Charity numbered 3.

3. Area of benefit. In this Scheme the expression "the area of benefit" shall mean the area consisting of the Parishes of Bispham, Croston, Mawdesley, Parbold and Wrightington, all in the County of Lancashire.

SCHOOL CHARITY

4. Investment of cash. All sums of cash now or at any time belonging to the School Charity, other than income needed for immediate working purposes, shall be invested in trust for the School Charity.

TRUSTEES

5. Trustees. (1) The body of Trustees shall consist when complete of twelve competent persons being –

Five Nominated Trustees and
Seven Co-opted Trustees.

(2) The Nominated Trustees shall either be resident in the area of benefit or, if Councillors, represent a ward within the area of benefit.

(3) The Co-opted Trustees shall be persons who through residence, or occupation or employment, or otherwise have special knowledge of the area of benefit.

6. Nominated Trustees. Except at first as hereinafter provided the Nominated Trustees shall be appointed as follows:-

One by the Bispham Parish Meeting, One by the Mawdsley Parish Council, One by the Parbold Parish Council, One by the Wrightington Parish Council; and One by the West Lancashire District Council.

Each appointment shall be made for a term of four years at a meeting convened and held according to the ordinary practice of the appointing body. The chairman of the meeting shall cause the name of each person appointed to be notified forthwith to the Trustees or their clerk. The person appointed may be but need not be a member of the appointing body.

7. First Nominated Trustees. The following persons shall be the first Nominated Trustees and subject to the provisions hereinafter contained for determination of trusteeship shall hold office as if they had been appointed by the respective appointing bodies under this Scheme, for the following periods respectively:

As appointee of Bispham Parish Meeting –

Geoffrey William Monk, of Roscow Farm, Bispham, Ormskirk,
in the County of Lancashire,

As appointee of Mawdesley Parish Council-

John Mawdsley, of Goulings Farm, Hall Lane, Mawdesley,
in the said county, and

As appointee of Parbold Parish Council –

James Swift, of Wayside, Ash Brow, Newburgh, in the said county,
all for four years from the date of this Scheme;

As appointee of Wrightington Parish Council –

Walter Rothwell, of 58 Finch Lane, Appley Bridge, in the said county,
And

As appointee of West Lancashire District Council -

Kenneth Vincent, of 2 Clent Cottage, Liverpool Road, Bickerstaffe, in the
said county,
both for two years from the said date.

8. First Co-opted Trustees. The following persons shall be the first Co-opted Trustees and subject to the provisions hereinafter contained for determination of trusteeship shall hold office for the following periods respectively:

Robert Skipworth, of 91 Dalehead Road, Leyland, in the said county,
John Warlow, of 2A Park Lane, Penwortham, in the said county, and
Reverend Brian Harding, of the Vicarage, 5 Tan House Lane, Parbold,
in the said county,
all for five years from the date of this Scheme;
Reverend David James Reynolds, of The Rectory, Bispham Green, in the
said county,
Doctor Alan Patrick Ryles, of the White House, Gores Lane, Crank, St.
Helens, in the County of Merseyside,
both for three years from the said date; and
George Martin Holman, of 15 Railway Road, Ormskirk, in the County of
Lancashire, and
Councillor George Woods, J.P., of 41 Danesway, Walton-le-Dale, in the County
of Lancashire,
both for one year from the said date.

9. Future Co-opted Trustees. Every future Co-opted Trustee shall be appointed for a term of five years by a resolution of the Trustees passed at a special meeting of which not less than 21 days' notice has been given and may be so appointed not more than one month before the term of an existing Co-opted Trustee expires with effect from the date of expiry but so that the latter shall not vote on the matter.

10. Declaration by Trustees. No person shall be entitled to act as a Trustee whether on a first or on any subsequent entry into office until after signing in the minute book of the Trustees a declaration of acceptance and of willingness to act in the trusts of the Charity.

11. Determination of trusteeship. Any Trustee who is absent from all meetings of the Trustees during a period of two consecutive years or who is adjudged bankrupt or makes a composition or arrangement with his or her creditors or who is incapacitated from acting or who communicates in writing to the Trustees a wish to resign shall cease thereupon to be a Trustee.

12. Vacancies. Upon the occurrence of a vacancy the Trustees shall cause a note thereof to be entered in their minute book at their next meeting and in the case of a vacancy in the office of Nominated Trustee shall cause notice thereof to be given as soon as possible to the proper appointing body. Any competent Trustee may be re-appointed.

MEETINGS AND PROCEEDINGS OF TRUSTEES

13. Ordinary Meetings. The Trustees shall hold at least one ordinary meeting in each year.

14. First meeting. The first meeting of the Trustees shall be summoned by the said Robert Skipworth, or if he fails for three calendar months after the date of this Scheme to summon a meeting by any two of the Trustees.

15. Chairman. The Trustees at their first ordinary meeting in each calendar year shall elect one of their number to be chairman of their meetings until the commencement of the first ordinary meeting in the following year. The chairman shall always be eligible for re-election. If at any meeting the chairman is not present within ten minutes after the time appointed for holding the same or there is no chairman the Trustees present shall choose one of their number to be chairman of the meeting.

16. Special meetings. A special meeting may be summoned at any time by the chairman or any two Trustees upon not less than four days' notice being given to the other Trustees of the matters to be discussed, but if the matters include an appointment of a Co-opted Trustee then upon not less than 21 days' notice being so given. A special meeting may be summoned to take place immediately after an ordinary meeting.

17. Quorum. There shall be a quorum when five Trustees are present at a meeting.

18. Minutes and accounts. A minute book and books of account shall be provided and kept by the Trustees. Statements of account in relation to the Charity shall be prepared and transmitted to the Charity Commissioners in accordance with the provisions of the Charities Act 1960, except if and in so far as the Charity is excepted by order or regulations.

19. General power to make regulations. Within the limits prescribed by this Scheme the Trustees shall have full power from time to time to make regulations for the management of the Charity and for the conduct of their business including the summoning of meetings, the appointment of a clerk, the deposit of money at a proper bank and the custody of documents.

20. Committees. The Trustees of the School Charity shall have power from time to time to appoint one or more committees consisting of three or more of their number and delegate to such committees such responsibility for the purpose of making any inquiry or supervising or performing any function or duty which in the opinion of those Trustees would be more conveniently undertaken or carried out by a committee but all acts and proceedings of committees shall be reported to the Trustees at their next meeting.

CONDUCT OF THE SCHOOL

21. The School. The School of the School Charity (hereinafter referred to as the School) shall continue to be conducted as a voluntary school within the meaning of the Education Acts 1944 to 1988 (hereinafter referred to as the Education Acts).

22. Religious instruction. Instruction in the Christian faith shall be given in the School.

PROPERTY

23. Use of property. The land with the buildings thereon specified in the schedule hereto shall be appropriated for use for the purposes of the School.

24. Sale or letting. The trustees shall sell or let all the land belonging to the School Charity not appropriated for use for the said purposes or no longer required for use for the said purposes subject nevertheless -

- (1) in the event of a letting, to the proviso that the Trustees shall not without the sanction of the Commissioners or a competent court create any tenancy wholly or partly in consideration of a fine or for a term ending more than 22 years after it is granted or for less than the best rent obtainable; and
- (2) in the event of a sale, or a letting to which the aforementioned proviso does not apply, to the authority of any further Order or Orders of the Commissioners.

25. Leases. The trustees shall provide that on the grant by them of any lease the lessees shall execute a counterpart thereof. Every lease shall contain covenants on the part of the lessee for the payment of rent and all other usual and proper covenants applicable to the property comprised therein and a proviso for re-entry or non-payment of the rent or non-performance of the covenants.

26. Repair and insurance. Except for the buildings of the School, the Trustees shall keep in repair and insure to the full value thereof against fire and other usual risks all the buildings of the School Charity not required to be kept in repair and insured by the lessees or tenants thereof or the Governors of the School and shall suitably insure in respect of public liability.

27. Proceeds of sale. The Trustees shall invest the clear proceeds of any such sale in trust for the School Charity.

APPLICATION OF INCOME

28. Expenses of management. The Trustees shall first defray out of the income of the School Charity the cost of such repairs and insurance as may be payable by them

in respect of the property of that Charity and all the proper costs, charges and expenses of and incidental to the administration and management of that Charity.

29. Application of income. (1) Subject to payment of the expenses aforesaid the Trustees shall apply the income of the School Charity in one or both of the following ways:-

- (a) in providing such special benefits at the School of any kind not normally provided by the local education authority as may from time to time be agreed between the Governors of the School and the Trustees;
- (b) in otherwise promoting the education (including social and physical training) of persons who are pupils or former pupils of the School under 25 years of age.

(2) If and in so far as income of the School Charity in any year cannot be applied as aforesaid the Trustees shall apply the same in promoting the education (including social and physical training) of persons under 25 years of age who are resident or who have a parent or parents resident in the area of benefit.

ECCLESIASTICAL CHARITY OF RICHARD DURNING

30. Custodian Trustee. The Blackburn Diocesan Board of Finance shall be the Custodian Trustee of the said charity numbered 3.

31. Managing Trustees. The Vicar and Churchwardens of the Ecclesiastical Parish of Christ Church, Douglas-in-Parbold, all for the time being and by virtue of their respective offices shall be the Managing Trustees of the said Charity numbered 3.

32. Application of income. The Managing Trustees shall apply the clear income of the said Charity numbered 3 for the benefit of the Vicar for the time being of the said ecclesiastical parish and thereby advance religion.

GENERAL PROVISIONS

33. Appropriation of benefits. Subject as hereinbefore provided with regard to the School Charity, the appropriation of the benefits of the Charities shall be made by the Trustees at meetings of their respective bodies and not separately by any individual trustee or trustees.

34. Trustees not to be personally interested. No Trustee shall take or hold any interest in property belonging to the Charities otherwise than as a Trustee for the purposes thereof and no Trustee shall receive remuneration, or be interested in the supply of work or goods, at the cost of the Charities.

35. Charity not to relieve public funds. The Trustees shall not apply income of the Charities directly in relief of rates, taxes or other public funds but may apply income in supplementing relief or assistance provided out of public funds.

36. Questions under 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 shall be determined by the Commissioners upon such application made to them for the purpose as they think sufficient.

SCHEDULE

Land containing 1,575 square yards or thereabouts situate at Bispham in the County of Lancashire with the buildings thereon known as Richard Durning's Endowed Primary School.

Sealed by Order of the Commissioners this 12th day of November 1991

L.S.