

Sealed 10th April 1991

T 37(S)

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County - Gloucestershire  
Ecclesiastical Parish - Prestbury St Mary  
Charity - Prestbury United Charities

CD(T1)

202,655 A/4

Scheme including appointment of Trustees

### CHARITY COMMISSION

In the matter of the following Charities, in the Ecclesiastical Parish of St. Mary, Prestbury, in the County of Gloucestershire, regulated by a Scheme of the Charity Commissioners of the 3rd June 1969 and known as the Prestbury United Charities:-

1. The Charity known as The Poor's Ground;
2. The Charity known as the Almshouses of Ann Goodrich;
3. The Charity of Mary Ellis;
4. The Charity of Thomas Baghott de la Bere;
5. The Charity of Hester Ann Durham;
6. The Charity of Mary Durham;
7. The Charity of John Surman Surman;
8. The Charity of George Perton;
9. The Charity of Margaret Ann Ryley; 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:-

### SCHEME

1. Administration of Charities. (1) The above-mentioned Charities and the property thereof specified in Part I, Part II and Part III of the schedule hereto and all other the property (if any) of the Charities shall be administered and managed together as one Charity (hereinafter referred to as the Charity) subject to and in accordance with the provisions of this Scheme by the body of Trustees hereinafter constituted.

(2) The name of the Charity shall be The Prestbury Charity (known locally as The Prestbury United Charities) or such other name as the Trustees from time to time by resolution may decide with the prior approval of the Charity Commissioners.

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

3. Vesting. The land with the buildings thereon specified in Part I of the said schedule and belonging to the Charities numbered 1 to 9 above jointly, is hereby vested in the

Official Custodian for Charities for all the estate and interest therein belonging to or held in trust for those Charities.

4. Area of benefit. In this Scheme the expression "area of benefit" shall mean the Ecclesiastical Parish of St. Mary, Prestbury and the adjoining Parishes of Swindon Village and Southam but with a preference for the said ecclesiastical parish.

## TRUSTEES

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

One Ex-officio Trustee  
Four Nominated Trustees and  
Four Co-opted Trustees.

(2) 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. Ex-officio Trustee. The Ex-officio Trustee shall be the incumbent for the time being of the present benefice of St. Mary, Prestbury: Provided that -

(1) during any period when there is no incumbent as aforesaid or the bishop declares a period of suspension in respect of the benefice the priest for the time being in charge of the benefice shall by virtue of his office be the Ex-officio Trustee; or

(2) if at any time the Church Commissioners make a pastoral Scheme dissolving the present benefice the incumbent of a new benefice which incorporates the whole or a major part of the area of the present benefice shall by virtue of his office be the Ex-officio Trustee; or

(3) if at any time the Church Commissioners make a pastoral Scheme establishing a team ministry for the area of any benefice which includes the whole or a major part of the area of the present benefice the rector for the time being of that team ministry shall by virtue of his office be the Ex-officio Trustee unless by that Scheme or by virtue of a bishop's licence a special cure of souls is assigned to a vicar in respect of an area which includes the whole or a major part of the present benefice in which case that vicar shall by virtue of his office be the Ex-officio Trustee.

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

Three by Prestbury Parish Council, and  
One by the Council of the Borough of Cheltenham.

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.

8. First Nominated Trustees under this Scheme. Every Nominated Trustee appointed by Prestbury Parish Council and the Council of the Borough of Cheltenham and holding office at the date of this Scheme shall subject to the provisions of clause 12 of this Scheme remain in office as appointee of the body by which he or she was appointed for the residue of the term for which he or she was appointed.

9. First Co-opted Trustees under this Scheme. Every Co-opted Trustee holding office at the date of this Scheme shall subject as aforesaid remain in office as a Co-opted Trustee for the residue of the term for which he or she was appointed to be a Co-opted Trustee.

10. 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.

11. 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 this Scheme.

12. Determination of trusteeship. Any Nominated or Co-opted Trustee who is absent from all meetings of the Trustees during a period of one year and any Trustee 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.

13. 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

14. Ordinary Meetings. The Trustees shall hold at least two ordinary meetings in each year.

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

16. Chairman. The Trustees at their first ordinary meeting in each 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.

17. 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.

18. Quorum. There shall be a quorum when four Trustees are present at any meeting.

19. Voting. Every matter shall be determined by the majority of votes of the Trustees present and voting on the question. In case of equality of votes the chairman of the meeting shall have a casting vote whether he or she has or has not voted previously on the same question but no Trustee in any other circumstances shall give more than one vote.

20. 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.

21. 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 deposit of money at a proper bank and the custody of documents.

22. Clerk. The Trustees may appoint as clerk one of their number without remuneration who shall be dismissable at their pleasure or some other fit person at such reasonable salary and upon such reasonable terms as to notice within the limits permitted by law and otherwise as they think fit.

## PROPERTY

23. Use of property. The Trustees may appropriate and use such land and buildings from time to time belonging to the Charity as they think fit as almshouses for the accommodation of residents in accordance with the provisions hereinafter contained.

24. Management and letting of lands. The Trustees shall let and otherwise manage all the land belonging to the Charity not required to be retained or occupied for the purposes thereof subject to such consents as are required by law.

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

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

## BRANCHES

27. Branches. (1) For the purpose of administration and management the Charity shall be divided into two branches to be called respectively: -

The Almshouse Branch, and  
The Relief in Need Branch.

(2) The Almshouse Branch shall consist of the property specified in Part I of the said schedule and belonging to the said Charities numbered 1 to 9 jointly.

(3) The Relief in Need Branch shall consist of the property specified in Part II of the said schedule and belonging to the Charities numbered 1 and 9 above.

(4) The property specified in Part III of the said schedule and belonging to the said Charities numbered 1 to 9 jointly shall be applied by the Trustees for either The Almshouse Branch or The Relief in Need Branch as the Trustees in their absolute discretion from time to time think fit.

## ALMSHOUSE BRANCH

28. Expenses of management. The Trustees shall first defray out of the income of The Almshouse Branch the cost of maintaining the property of that Branch (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof and all the proper costs, charges and expenses of and incidental to the administration and management of that Branch.

29. Provision of almshouses. (1) Subject to the approval of the Charity Commissioners the Trustees may provide land and buildings for appropriation as almshouses in accordance with the provisions hereinafter contained.

(2) The Trustees may defray the cost of providing land and buildings for appropriation and use as almshouses as aforesaid out of income property of The Almshouse Branch but nevertheless upon such terms with regard to the recoupment of capital expended and otherwise as the Charity Commissioners by further Order or Orders provide.

30. Cyclical Maintenance Fund. (1) The Trustees may establish and maintain a reserve fund, to be entitled Cyclical Maintenance Fund, for the purpose of providing for those items of ordinary maintenance and repair of the almshouses and other property belonging to The Almshouse Branch which recur at infrequent intervals.

(2) Any such Fund shall be maintained out of the income of that Branch by setting aside such annual sum as the Trustees think sufficient for the purpose.

(3) Income of that Branch which is attributable to the Fund shall constitute part of the Fund.

(4) The Trustees may at any time apply the Fund, or any part of it, for its purposes; but insofar as the Fund is not so applied it shall be invested in trust for that Branch of the Charity.

31. Extraordinary Repair Fund. Subject to any further Order or directions of the Charity Commissioners -

(1) The Trustees shall establish and maintain a reserve fund, to be entitled Extraordinary Repair Fund, for the purpose of providing for the extraordinary repair, improvement or rebuilding of the property belonging to The Almshouse Branch.

(2) The Fund shall be established and maintained out of the income of that Branch by transfer to the Fund of such annual sum sufficient for the purpose of the Fund unless the Commissioners otherwise direct.

(3) Income of that Branch which is attributable to the Fund shall constitute part of the Fund.

(4) The Trustees may at any time apply the Fund, or any part of it, for its purposes; but insofar as the Fund is not so applied it shall be invested in trust for that Branch of the Charity.

32. Benefit of residents. Subject to the payments aforesaid the Trustees shall apply the income of The Almshouse Branch for the benefit of the residents in the almshouses of The Almshouse Branch (hereinafter referred to as the residents) or any of them in such manner as the Trustees think fit from time to time.

33. Qualifications of residents. The residents shall be persons in need who (except in special cases to be approved by the Charity Commissioners) are inhabitants of the area of benefit.

34. Contributions. (1) The Trustees may make it a condition of appointing or permitting a person to be or remain a resident that he or she shall from resources available to him or her -

(a) contribute a weekly sum towards the cost of maintaining the almshouses and essential services therein but so that the amount of the weekly sum shall not -

(i) be such as to cause hardship to him or her;

(ii) be more than the amount approved from time to time by the Charity Commissioners;

(b) contribute towards the cost of lighting and heating the almshouses and providing hot water therein.

(2) For the purpose of accumulating funds for providing almshouses the Trustees may increase the weekly sum payable by a resident to such level as the Charity Commissioners from time to time approve.

(3) For such period as the Charity Commissioners approve the Trustees shall transfer the amount by which such weekly sum is increased as aforesaid to a fund to be called the Almshouse Fund.

(4) Income of the Fund shall constitute part of the Fund.

(5) The Trustees may at any time apply the Fund or any part thereof, for its purposes; but insofar as the Fund is not so applied it shall be invested in trust for The Almshouse Branch of the Charity.

35. Notice of vacancy. No appointment of a resident shall be made by the Trustees until a sufficient notice of an existing vacancy specifying the qualifications required from applicants has been published in the area of benefit by advertisement or otherwise so as to give due publicity to the intended appointment but it shall not be necessary to publish a notice if a vacancy occurs within twelve calendar months after the last notice of a vacancy among the same class of residents has been published. Notices may be according to the form annexed hereto.

36. Applications for appointment. All applications for appointment shall be made to the Trustees or their clerk in such manner as the Trustees direct. Before appointing any applicant to be a resident the Trustees shall require him or her to attend in person unless he or she is physically disabled or the Trustees are of opinion that special circumstances render this unnecessary. An applicant may be required to supply evidence of his or her qualification for appointment.

37. Selection of residents. Residents shall be selected only after full investigation of the suitability and circumstances of the applicants.

38. Appointments of residents. Every appointment of a resident shall be made by the Trustees at a special meeting.

39. Records. The Trustees shall provide and keep a book in which shall be entered the name, age and description of every person appointed to be a resident, the date of every appointment and the date and occasion of every vacancy. They shall also keep a register of all applications for appointment.

40. Absence from almshouses. The Trustees shall require that any resident who desires to be absent from the almshouses for more than 28 days in any one year shall obtain the prior consent of the Trustees or of some officer of the Charity to be nominated by them.

41. Rooms not to be let. No resident shall be permitted to let or part with the possession of the room or rooms allotted to him or her or except with the special permission of the Trustees to allow any person to share the occupation of the same or any part thereof.

42. Setting aside appointments. (1) The Trustees may set aside the appointment of any resident who in their opinion -

(a) persistently or without reasonable excuse either disregards the regulations for the residents or disturbs the quiet occupation of the almshouses or otherwise behaves vexatiously or offensively; or

(b) no longer has the required qualifications; or

(c) has been appointed without having the required qualifications; or

(d) is suffering from mental or other disease or infirmity rendering him or her unsuited to remain a resident.

(2) Upon setting aside the appointment of a resident the Trustees shall require and take possession of the room or rooms occupied by him or her.

(3) The Trustees upon recovery of a resident whose appointment has been set aside on account of mental or other disease or infirmity may re-appoint him or her without giving previous notice of the vacancy.

43. Regulations. The Trustees may prescribe from time to time such reasonable regulations as they consider expedient for the management of the almshouses and the welfare of the residents but so that the same shall not be at variance or inconsistent with any of the provisions of this Scheme.

### RELIEF IN NEED BRANCH

44. Expenses of management. The Trustees shall first defray out of the income of The Relief in Need Branch all the proper costs, charges and expenses of and incidental to the administration and management of the Branch.

45. Application of income. (1) Subject to payment of the expenses aforesaid the Trustees shall apply the income of The Relief in Need Branch in relieving either generally or individually persons resident in the areas of benefit who are in conditions of need, hardship or distress by making grants of money or providing or paying for items, services or facilities calculated to reduce the need, hardship or distress of such persons.

(2) The Trustees may pay for such items, services or facilities by way of donations or subscriptions to institutions or organisations which provide or which undertake in return to provide such items, services or facilities for such persons.

(3) In exceptional cases the Trustees may grant relief to persons otherwise eligible therefor who are resident immediately outside the area of benefit but in the opinion of the Trustees ought nevertheless for sufficient reason to be treated as if resident therein or who are located for the time being within the area of benefit.

46. Restrictions. In applying the income of The Relief in Need Branch the Trustees shall not commit themselves to repeat or renew the relief granted on any occasion in any case.

## GENERAL PROVISIONS

47. Appropriation and emergencies. (1) Subject as hereinafter mentioned the appropriation of the benefits of the Charity shall be made by the Trustees at meetings of their body and not separately by any individual Trustee or Trustees.

(2) The Trustees from time to time may appoint two or more members of their body to be a committee (to be known as an Emergency Relief Committee) for granting relief in need out of the income of The Relief in Need Branch in cases at an ordinary meeting of the Trustees for the period until the next ordinary meeting.

(3) An Emergency Relief Committee before granting any relief in need shall take into account so far as circumstances permit any arrangements made in connection with services provided by a local council and ascertain that the relief sought is not available from public funds.

(4) Any member of an Emergency Relief Committee who is satisfied that instant relief in need should properly be provided in a case of acute emergency but whose fellow members cannot be reached for consultation may grant such relief forthwith out of the amount made available for cases of emergency.

(5) All action taken by an Emergency Relief Committee or any member of it shall be reported forthwith to the clerk of the Charities and as soon as possible to the Trustees.

48. Trustees not to be personally interested. No Trustee shall take or hold any interest in property belonging to The Almshouse Branch 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 Charity.

49. Co-ordination of activities. The Trustees so far as practicable shall make arrangements with local councils for co-ordinating the activities of the Charity with services provided by local councils to which the purposes of the Charities are similar or complementary in the interests of persons who may benefit from those services or from the Charity and for the exchange of information in the interests of those persons.

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

51. 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 Charity Commissioners upon such application made to them for the purpose as they think sufficient.

## FORM OF NOTICE

The Prestbury Charity.

A residence is available for a person in need resident in the Ecclesiastical Parish of St. Mary, Prestbury or in the Parishes of Swindon Village or Southam.

Apply for details to



## SCHEDULE

### Part I

#### Charities numbered 1 to 9 above jointly

The following land situate at Prestbury, in the County of Gloucestershire:-

1. Leasehold land with the buildings thereon known as 12 Rushey Mews.
2. Land with buildings thereon known as 3 Rust Cottages.

The following investments standing in the books of the Official Custodian for Charities:-

2,267.54 Income Shares in the Charities Official Investment Fund.

6,170 Income Shares in the National Association of Almshouses Common Investment Fund.

### Part II

#### Charity numbered 1 above

The following sums of cash held on capital advantage account at the 128 High Street, Cheltenham branch of Barclays Bank PLC:-

£11,001 (permanent endowment)

£2,104.46 (accumulation of interest)

#### Charity numbered 9 above

The following Income Shares in the Charities Official Investment Fund:-

113 Income Shares

524.36 Income Shares (accumulations of income)

£480.00 cash on capital advantage account at the above-mentioned branch of Barclays Bank PLC.

### Part III

#### Charities numbered 1 to 9 above jointly

£60,326.77 cash on capital advantage account at the said branch of Barclays Bank PLC being the proceeds of sale and accumulated interest of real property belonging to the Charity of Emily Laura Urling Smith, at Prestbury, in the County of Gloucestershire, regulated by a conveyance and trust deed made the 1st March 1950 between Emily Laura Urling Smith of the one part and John William Robson and two others of the other part and recorded in the books of the Charity Commissioners on the 12th July 1950 pursuant to section 29(4) of the Settled Land Act 1925 and which sum was transferred to the Charities numbered 1 to 9 above jointly under the provisions of that conveyance and trust deed.

This schedule is made up to the 13th February 1991.

Sealed by Order of the Commissioners this 10th day of April 1991.

L.S.