

Sealed 15th February 1995

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County
Place
Charity

- Dorset
- Portesham
- Fry Brothers' Charity



CD(T)
284,669 A/1

Adjudged not chargeable
with stamp duty

Scheme including appointment of
Trustees

CHARITY COMMISSION

In the matter of the Fry Brothers' Charity, at Portesham, in the County of Dorset, regulated by declaration of trust dated the 1st April 1982, as varied or affected by a Scheme of the Charity Commissioners of the 14th February 1985; and
In the matter of the Charities Act 1993.

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 Charity:-

S C H E M E

1. Administration of Charity. (1) The above-mentioned Charity and the property thereof specified in the schedule hereto and all other the property (if any) of the Charity shall be administered and managed 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 Fry Brothers' Charity 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 the said schedule is hereby vested in the Official Custodian for Charities for all the estate and interest therein belonging to or held in trust for the Charity.

4. Almshouses. The said land with the buildings thereon shall be appropriated and used as almshouses for the accommodation of residents in conformity with the provisions of this Scheme.

5. Trustees. The body of Trustees shall consist when complete of six competent persons.

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

Maria Diana Dowell, of 19 South Court Avenue, Dorchester, and
Stephen John Slade, of The Old Smithy, Martinstown, Near Dorchester

both for five years from the date of this Scheme:

Desmond Albert Baker, of 5 Bramdon Lane, Portesham, Weymouth, and
Leslie Malcolm Phillips, of 17 West Mills Road, Dorchester.

both for three years from the said date:

Michael John Pengelly, of Withybank, Gorwell Farm, Abbotsbury, Near
Weymouth, and
Gwendoline Gertrude Powell, of 3 Durngate Street, Dorchester.

both for one year from the said date.

7. Future Trustees. Every future 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 Trustee expires with effect from the date of expiry but so that the latter shall not vote on the matter.

8. 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.

9. Determination of Trusteeship. A Trustee shall cease to be a Trustee if he or she:

- (1) is disqualified from acting as a Trustee by virtue of section 72 of the Charities Act 1993; or
- (2) becomes incapable (in the opinion of the Trustees) by reason of illness, injury or mental disorder of managing his or her own affairs; or
- (3) is absent without the permission of the Trustees from all their meetings held within a period of six months and the Trustees resolve that his or her office be vacated; or

- (4) gives not less than one month's notice in writing of his or her intention to resign (but only if at least three Trustees will remain in office when the notice of resignation is to take effect).

10. 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. Any competent Trustee may be re-appointed.

MEETINGS AND PROCEEDINGS OF TRUSTEES

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

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

13. 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.

14. 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. A special meeting may be summoned to take place immediately after an ordinary meeting.

15. Quorum. There shall be a quorum when three Trustees are present at a meeting.

16. 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.

17. Minutes. The Trustees shall keep, in books maintained for the purpose, minutes of the proceedings of their meetings.

18. Accounts and annual report. (1) Until such time as Part VI of the Charities Act 1993 comes into force, statements of account in relation to the Charity shall be prepared and transmitted to the Commissioners in accordance with the Charities Act 1960, except if and in so far as the Charity is excepted by Order or regulations.

(2) Upon Part VI of the Charities Act 1993 coming into force, the Trustees shall comply with their obligations under that Act with regard to:

- (a) the keeping of accounting records for the Charity:

- (b) the preparation of annual accounts for the Charity;
- (c) the auditing or independent examination of the statements of account of the Charity;
- (d) the transmission of the statements of account of the Charity to the Commissioners; and
- (e) the preparation of an annual report and its submission to the Commissioners.

19. Annual return. The Trustees shall comply with their obligations under the Charities Act 1993 with regard to the preparation of an annual return and its transmission to the Commissioners.

20. 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.

21. Secretary. The Trustees may appoint as secretary 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.

MANAGEMENT OF PROPERTY

22. 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.

23. 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, 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.

24. 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 and employer's liability.

25. Provision of further almshouses. (1) Subject to the approval of the Commissioners the Trustees may provide on land belonging to the Charity buildings for appropriation as further almshouses for the accommodation of residents in accordance with the provisions of this Scheme.

(2) The Trustees may defray the cost of providing such almshouses as aforesaid out of the income and property of the Charity but nevertheless upon such terms with regard to the

recoupment of capital expended and otherwise as the Commissioners by further Order or Orders provide.

26. Sale. If at any time the Trustees decide that the land specified in the said schedule is unsuitable for the provision of almshouses they may subject to such consents as are required by law sell the whole or any part of the said land and may do and execute all proper acts and assurances for carrying any such sale into effect.

27. Proceeds of sale. (1) Unless the Commissioners otherwise direct the clear proceeds of any such sale as aforesaid shall be invested in trust for the Charity.

(2) The Trustees may at any time apply the whole or part of the said proceeds of in or towards providing further land and buildings for the provision of almshouses.

(3) The Trustees shall apply the income arising from cash and investments from time to time representing the said proceeds in furthering the purposes of the Charity.

APPLICATION OF INCOME

28. Expenses of management. The Trustees shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (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 the Charity.

29. 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 Charity which recur at infrequent intervals.

(2) Any such fund shall be established with the sum of £10,000 from the accumulated income of the Charity and subsequently maintained out of the income of the Charity by setting aside such annual sum sufficient for the purpose.

(3) Income of the Charity 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 the Charity.

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

(1) The Trustees shall establish and maintain a reserve fund, called the Extraordinary Repair Fund, for the purpose of providing for the extraordinary repair, improvement or rebuilding of the almshouses and other buildings of the Charity.

(2) The fund shall be established with the sum of £10,000 from the accumulated income of the Charity and subsequently maintained out of income of the Charity by transfer

to the fund of such annual sum sufficient for the purpose of the fund unless the Commissioners otherwise direct.

- (3) Income of the Charity 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 purpose but insofar as the fund is not so applied it shall be invested in trust for the Charity.

31. Benefit of residents. Subject to the payments aforesaid the Trustees shall apply the income of the Charity for the benefit of the residents in the almshouses of the Charity or any of them in such manner as the Trustees think fit from time to time.

ALMSHOUSES AND RESIDENTS

32. Saving for existing residents. Appointments of residents under this Scheme shall be made without prejudice to the interests of the existing residents.

33. Qualifications of residents. The residents shall be persons in need who are or who have been inhabitants of Portesham and the neighbourhood thereof with a preference for such persons who are retired agricultural workers.

34. Contributions. The Trustees may make it a condition of appointing or permitting persons to reside that they shall from resources available to them -

- (1) contribute a weekly sum towards the cost of maintaining the almshouses and essential services in them but the amount of the weekly sum shall not be such as to cause hardship to them;
- (2) contribute towards the cost of lighting and heating the almshouses and providing hot water in them.

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 Portesham and the neighbourhood thereof 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. Superintendent. The Trustees may appoint a superintendent to perform such duties as may be necessary for the superintendence and care of the residents at such reasonable salary and upon such reasonable terms as to notice within the limits permitted by law and otherwise as they think fit and may allot to the superintendent a room or rooms in the almshouses as a residence while he or she holds office as superintendent.

43. 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.

44. 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.

GENERAL PROVISIONS

45. Appropriation of benefits. 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: Provided that the Trustees from time to time may appoint two or more members of their body to be a committee for dealing with any cases of emergency but all acts and proceedings of committees shall be reported in due course to the Trustees.

46. Trustees not to be personally interested. No Trustee shall take or hold any interest in property belonging to the Charity 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.

47. 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.

48. 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.

FORM OF NOTICE

The Fry Brothers' Charity, Portesham, Dorset.

A residence is available for a person in need who is or who has at any time been resident in Portesham and the neighbourhood thereof.

Apply for details to

SCHEDULE

The following land situate at Portesham, in the County of Dorset:-

1. Land with the buildings thereon known as 5, 7, 9, 10, 11 and 12 Frys Close being the land comprised in conveyances dated 13th December 1985 and 12th May 1986 and made between Joseph Basil Gillam and Clarissa Bark of the first part and the Trustees of the Fry Brothers Charity of the second part.
2. Land with the buildings thereon known as 14 Back Street being the land registered under the Land Registration Acts 1925 to 1988 under Title No DT 200025.

3. Land with the buildings thereon known as 16 Cemetery Road being the land registered under the Land Registration Acts 1925 to 1988 under Title No DT 217755.

Sealed by Order of the Commissioners this 15th day of February 1995.



B. Thompson

ASSISTANT COMMISSIONER