

Draft Order laid before Parliament under section 17(2) of the Charities Act 1993, on 29th November 1999; draft to lie for forty days, pursuant to section 6(1) of the Statutory Instruments Act 1946, during which period either House of Parliament may resolve that the Order be not made.

DRAFT STATUTORY INSTRUMENTS

1999 No.

CHARITIES

Charities (Boxmoor Estate, Hemel Hempstead) Order 1999

Made - - - - 1999
Coming into force - - 1999

Whereas the Charity Commissioners for England and Wales, have in pursuance of section 17(1) of the Charities Act 1993(1), settled the Scheme set out in the Appendix to this order with a view to its being given effect under that section:

And whereas the Scheme does not alter any statutory provision contained in or having effect under any public general Act of Parliament:

And whereas a draft of this Order has been laid before Parliament the period of forty days mentioned in section 6(1) of the Statutory Instruments Act 1946(2) has expired, and neither House of Parliament has within that period resolved that the Order not be made:

Now, therefore, in pursuance of section 17(2) of the Charities Act 1993, The Secretary of State hereby makes the following Order:—

1. This Order may be cited as the Charities (Boxmoor Estate, Hemel Hempstead) Order 1999 and shall come into force on the fourteenth day after the day on which it is made.
2. The Scheme set out in the Appendix to this Order shall have effect.

Home Office
1999

One of Her Majesty's Principal Secretaries of
State

(1) 1993 c. 10.
(2) 1946 c. 36.

APPENDIX

SCHEME FOR THE ADMINISTRATION OF THE CHARITY PRESENTLY CALLED THE BOXMOOR ESTATE SITUATED AT HEMEL HEMPSTEAD

Whereas the Charity known as the Boxmoor Estate situated at Hemel Hempstead and Bovington in the County of Hertfordshire (“the Charity”) is now regulated by the Boxmoor Act 1809⁽³⁾ (“the Act”) and by Schemes of the Charity Commissioners of 16th December 1921, 18th July 1930, 10th September 1935, 21st May 1951, 12th August 1952, 29th May 1956, 11th September 1956, 6th November 1962, 11th December 1967, 5th October 1970, 21st February 1979 and 1st May 1985:

And whereas the Trustees of the Charity have made application to the Charity Commissioners for England and Wales (“the Commissioners”) for a Scheme for the administration of the Charity (“the Scheme”):

And whereas it appears to the Commissioners that a Scheme should be established for the administration of the Charity, but that it is necessary for the Scheme to make provision which goes beyond the powers exercisable by them apart from section 17 of the Charities Act 1993 (“the 1993 Act”):

And whereas in pursuance of section 20 of the 1993 Act public notice of the Commissioners' proposals for this Scheme has been given and the Commissioners have considered all the representations made to them:

Now, therefore, the Commissioners in pursuance of section 17(1) of the 1993 Act hereby settle the following Scheme:

SCHEME

Administration of Charity

- (a) (a) The provisions of the Act shall cease to have effect with the exception of sections 11, 12 and 13.
- (b) With effect from the date that this Scheme is given effect by an Order of the Secretary of State under section 17(2) of the 1993 Act, the Charity and the property thereof shall be administered and managed in accordance with the provisions of this Scheme by the body of Trustees hereinafter constituted.
- (c) The name of the Charity shall be the Box Moor Trust or such other name as the Trustees shall from time to time, with the consent of the Commissioners, decide.

Vesting

2. As from the date on which this Scheme is given effect by an Order of the Secretary of State under section 17(2) of the 1993 Act the property described in the Schedule to this Scheme and all other property of the Charity shall vest in the Trustees for all the estate and interest therein belonging to or held in trust for the Charity.

Investment of cash

3. 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) 1809 (49 Geo. 3) c. clxix.

Investment in land

- (a) (a) The trustees may retain and manage any land held as an investment at the date of this Scheme.
- (b) The Trustees may sell or otherwise dispose of such land in accordance with the powers of sale of land contained in this Scheme.
- (c) Subject to clause 31 of this Scheme and to sub-clause (e) below the Trustees may reinvest the proceeds of sale or other disposal of such land in land to be held as an investment.
- (d) Subject to clause 31 of this Scheme and to sub-clause (e) below the Trustees may invest surplus cash in accordance with clause 3 above in land to be held as an investment.
- (e) No re-investment or investment in land to be held as an investment shall be made by the Trustees except in accordance with professional advice taken from a person or persons having professional experience of investing in land to be held by way of investment.

Interpretation

5. In this Scheme the following expression shall have the following meanings:–

- (a) “the deposited map” shall mean the map deposited in the office of the Commissioners and identified by the official seal of the Commissioners and the number 46047;
- (b) “the Bovingdon area” shall mean the area coloured grey-green on the deposited map;
- (c) “the Hemel Hempstead area” shall mean the area coloured buff on the deposited map;
- (d) “the area of benefit” shall mean the area outlined in black on the deposited map, comprising both the Bovingdon area and the Hemel Hempstead area;
- (e) “electors” shall mean persons resident in the area of benefit whose names are for the time being entered in the electoral register maintained for parliamentary and local government elections which covers the area of benefit; and
- (f) “residence” means a dwelling house within the area of benefit in which a person normally lives and the expression “resident” shall be construed accordingly.

TRUSTEES

Trustees

- (a) (a) Subject to clause 7 of this Scheme the body of Trustees when complete shall consist of twelve competent persons who shall be elected in accordance with the provisions of this Scheme.
- (b) The Trustees must be electors as defined in this Scheme.

Transitional Provisions and First Trustees

- (a) (a) The first Trustees for the purposes of this Scheme shall be those Trustees of the Charity holding office on the date that this Scheme is given effect by an Order of the Secretary of State under section 17(2) of the 1993 Act and who shall (subject to clause 9(c)(i) to (v) of this Scheme) hold office for life.
- (b) All vacancies in the trusteeship of the Charity occurring after the date of this Scheme shall be filled by election as hereinafter provided.

Declaration by Trustees

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

Termination of Trusteeship

- (a) (a) At every election held under the provisions of clause 11 of this Scheme, one quarter of the elected Trustees, or if their number is not a multiple of four, the number nearest to one quarter, shall retire from office. The elected Trustees to retire shall be those who have been longest in office since their last appointment or re-appointment; but as between persons who were last appointed or re-appointed on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot. Subject to clause 11(d) of this Scheme any competent Trustee shall be eligible for re-election.
- (b) For the avoidance of doubt, in calculating the fraction of one quarter in sub-clause (a) above:
 - (i) those Trustees serving for life shall not be required to retire and shall not be included in the total number of Trustees;
 - (ii) those Trustees who have ceased to be Trustees by virtue of sub-clause (c) below shall not be included in the total number of Trustees; and
 - (iii) if the number of Trustees is five or less, one Trustee shall retire; if the number of Trustees is between six and nine inclusive, two Trustees shall retire; and if the number of Trustees is between ten and twelve inclusive, three Trustees shall retire.
- (c) A Trustee shall cease to be a Trustee if he or she:–
 - (i) is disqualified from acting as a Trustee of a charity by virtue of section 72 of the 1993 Act;
 - (ii) becomes incapable (in the opinion of the Trustees) by reason of illness injury or mental disorder of managing his or her own affairs;
 - (iii) is absent without permission of the Trustees from all their ordinary meetings held within a period of six months and the Trustees resolve that his or her office be vacated;
 - (iv) gives not less than one month's notice in writing of his or her intention to resign (but only if at least the required quorum of Trustees will remain in office when the notice of resignation takes effect);
 - (v) ceases to be an elector; or
 - (vi) reaches the age of 75 and is not a Trustee serving for life.

Vacancies

10. Upon the occurrence of a vacancy the Trustees shall cause a note thereof to be entered in their minute book at their next meeting.

ELECTIONS

Elections

- (a) (a) For the purposes of appointing new elected Trustees of the Charity the Trustees shall call an election:

- (i) within three months of the number of Trustees falling to fewer than nine; and
 - (ii) no later than five years after the date of the previous election or (in the case of the first election) the date on which this Scheme is given effect by an Order of the Secretary of State under section 17(2) of the 1993 Act.
- (b) All electors shall be entitled to vote in an election. Each elector shall be entitled to one vote in respect of each vacancy in the Trustee body but so that:
 - (i) no person standing for office shall be entitled to vote; and
 - (ii) no person shall cast more than one vote in favour of any one candidate.
- (c) Every election shall be conducted by the Trustees, who shall give at least 28 days public notice of the election in the area of benefit.
- (d) Every person standing for election shall be proposed and seconded by ten electors. No person shall be eligible for election if his or her term of office has been terminated under paragraphs (i), (ii), (iii) or (vi) of clause 9(c) above.
- (e) Voting at an election shall be by personal voting in a secret ballot.
- (f) Within the limits prescribed by this Scheme the Trustees shall have full power from time to time to make regulations for the conduct of elections, including the proposal and seconding of candidates, the number and location of polling stations, the wording of voting papers, the date and time of voting and the counting and recording of votes.
- (g) Without prejudice to the generality of the power conferred by the preceding sub-clause, the Trustees may in particular divide the area of benefit into two or more electoral divisions for the purpose of holding elections, and require any candidate for election to be resident in a particular division. Any exercise of this power shall not derogate from the duty of every Trustee to act in the best interests of the Charity and its beneficiaries as a whole.

TRUST MEETINGS

Annual Trust Meeting

- (a) (a) There shall be an annual meeting of the electors, to be known as the Annual Trust Meeting, which shall be held in the month of April in each year or as soon as practicable thereafter.
- (b) The Trustees shall present to each Annual Trust Meeting the Report and Accounts of the Charity for the preceding year.

Special Trust Meetings

- (a) (a) The Trustees may at any time and shall if so requested in writing by at least 100 electors, call a special meeting of electors (to be known as a Special Trust Meeting) to discuss any question relating to the Charity.
- (b) Written requests for a Special Trust meeting shall be written individually by each elector and addressed to the Charity at its office for the time being.

Notice of Trust Meetings

14. Every Trust Meeting shall be called by the Trustees, who must give at least 21 days public notice in the area of benefit, specifying in the case of a Special Trust Meeting the matter or matters to be discussed.

Procedure at Trust Meetings

- (a) (a) All electors shall be entitled to attend and vote at any meeting.
- (b) If present, the presiding Trustee for the time being shall be the chairman of any Trust meeting. If he or she is not present, before any other business is transacted the persons present at the meeting shall appoint another of the Trustees to be chairman of the meeting.
- (c) The Trustees may place any matter they think fit before any Trust Meeting for consideration by those attending. The Trustees shall not, however, be required to submit any matter to the decision of those attending a Trust Meeting or be bound by any views expressed, whether by resolution or otherwise, by those attending any Trust Meeting, after the expiration of any agreed period of consultation or consideration in respect of those views.

MEETINGS AND PROCEEDINGS OF TRUSTEES

Ordinary Meetings

16. The Trustees shall hold at least two ordinary meetings in each year.

First meeting

17. The first meeting of the Trustees shall be summoned by the Clerk to the Trustees for the time being and if he or she fails to summon a meeting for three calendar months after the date on which this Scheme is given effect by an Order of the Secretary of State under section 17(2) of the 1933 Act, or if there is no Clerk, then a meeting may be summoned by any two of the Trustees.

Presiding Trustee

18. The Trustees at their first ordinary meeting after the date on which this Scheme is given effect by an Order of the Secretary of State under section 17(2) of the 1993 Act shall elect one of their number to preside over their meetings. Such person shall hold office until the third anniversary of his or her appointment or until he or she ceases to be a Trustee. In the event of a vacancy in the office for whatever reason the Trustees shall elect a replacement at their next ordinary meeting of the Trustees. The person so appointed (who may be known by the title of Chairman or such other name as the Trustees may from time to time agree) shall be eligible for re-election unless he or she ceases to be a Trustee. If at any meeting the presiding Trustee is not present within 10 minutes after the time appointed for holding the same or there is no presiding Trustee, the Trustees present shall choose one of their number to preside at that meeting.

Special Meetings

19. A special meeting may be summoned at any time by the presiding Trustee 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.

Quorum

- (a) (a) Except as provided in sub-clause (b) below no business shall be transacted at any meeting unless there are present not less than the number of Trustees determined in accordance with the following table:

<i>Number of Trustees</i>	<i>Quorum required</i>
4 – 8	4 Trustees
9 – 12	5 Trustees

- (b) If the number of Trustees falls below the relevant quorum as required by sub-clause (a) above, the Trustees may act for the purpose of increasing the number of Trustees to that quorum, but for no other purpose.

Voting

21. 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 have more than one vote.

Minutes

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

General power to make regulations

23. 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 bank and the custody of documents.

Chief Executive and other staff

24. The Trustees may appoint and dismiss, within the limits permitted by law, a Chief Executive, a Clerk, and such other employees (if any) as they consider necessary for the efficient operation of the Charity, and may pay such persons (who shall not be the Trustees) such reasonable remuneration as they think fit.

Committees

25. The Trustees may from time to time appoint any two or more of their number to be a committee for the purposes of discharging any function or performing any duty which in their opinion would be more effectively undertaken by way of committee, provided that all acts and proceedings of the committee shall be fully and promptly reported to the Trustees.

USE OF LAND

Use of land

26. The land specified in the Schedule hereto shall continue to be appropriated and used for the provision, in the interests of social welfare, of facilities for the recreation and other leisure time occupation of the residents of the area of benefit; subject to this use, the land shall be available for access for recreation by the public at large.

MANAGEMENT OF PROPERTY

Management and letting of lands

27. The Trustees shall let or otherwise manage all the land belonging to the Charity not required to be appropriated and used for charitable purposes.

Leases

28. 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.

Repair and Insurance

29. 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.

Sale or other disposal

30. The Trustees may sell or otherwise dispose of the whole or any part of the said land not required to be appropriated and used for charitable purposes, and may do and execute all proper acts and assurances for carrying any such sale into effect.

Proceeds of sale or other disposal

31. Unless the Commissioners otherwise direct the clear proceeds of any such sale or disposal as aforesaid shall be invested in trust for the Charity.

APPLICATION OF INCOME

Expenses of Management

- (a) (a) 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 expenses of and incidental to the administration and management of the Charity.
- (b) The Trustees may provide indemnity insurance for themselves out of the funds of the Charity provided that any such insurance shall not extend to any claim arising from any act or omission which the Trustees knew to be a breach of trust or breach of duty or which was committed by the Trustees in reckless disregard of whether it was a breach of trust or breach of duty or not.

Reserve Fund

- (a) (a) In the interests of prudent management the Trustees may establish and maintain a reserve fund, to be called the Reserve Fund ("the Fund"), for the purpose of providing:
 - (i) for the management expenses of the Charity in the event of a deficiency of income;

- (ii) for the extraordinary repair, improvement and rebuilding of the buildings of the Charity; and
- (iii) for the maintenance and improvement of the assets of the Charity.
- (b) Unless the Commissioners otherwise direct, the Fund shall be established and maintained out of the income of the Charity by the transfer to the Fund of such annual sum as is sufficient for the purpose.
- (c) Income of the Charity which is attributable to the Fund shall form part of the Fund.
- (d) The Trustees may at any time apply the Fund, or any part of it, for its purposes, but in so far as the Fund is not so applied it shall be invested in trust for the Charity.

Purchase of additional land

34. The Trustees may apply the income of the Charity in acquiring additional land to be appropriated and used for charitable purposes for the benefit of the residents of the area of benefit.

Application of income

- (a) (a) Subject to the payments aforesaid, the Trustees shall apply the income of the Charity as follows:
 - (i) as to 90% thereof for the benefit of the residents of the Hemel Hempstead area in the manner hereinafter specified; and
 - (ii) as to the remaining 10% thereof for the benefit of the residents of the Bovingdon area in the manner hereinafter specified.
- (b) the income applicable under the preceding sub-clause for the benefit of the residents of either the Hemel Hempstead area or the Bovingdon area shall be applied by the Trustees in one or more of the following ways for:
 - (i) the relief of the aged, sick, disabled or poor residents of that area;
 - (ii) the provision, or assistance in the provision, for the benefit of the residents of that area and its neighbourhood or any section of those residents, of facilities for recreation or other leisure time occupation where that provision is charitable by virtue of section 1 of the Recreational Charities Act 1958 (facilities provided in the interests of social welfare);
 - (iii) the advancement of education for the benefit of residents of that area; and
 - (iv) the promotion of any other charitable purpose (whether or not of a nature similar to any purpose specified in paragraphs (i), (ii) and (iii) above) for the benefit of the residents of that area.

GENERAL PROVISIONS

Co-operation with local authorities

36. Where it appears to the Trustees that it is likely to advance or make more effective the work of the Charity (but not otherwise) they may co-operate with any local authority within or adjoining the area of benefit for purposes including (but without prejudice to the generality of the foregoing) the co-ordination of activities or participation in joint projects and the Trustees may defray the cost of such co-operation out of any income (or money applicable as income) of the Charity.

Temporary restriction of access to land

- (a) (a) Where the Trustees after taking appropriate technical or professional advice consider that it is necessary to restrict public access to a particular site or sites on the Charity's land which have hitherto been on open access to the public, such restriction being for the purposes of environmental protection or improvement of the site or sites, they may restrict public access to that site or sites on such terms and conditions as they think fit, but only for such period as is necessary to effect such protection or improvement.
- (b) Where the Trustees have made a decision to restrict access under sub-clause (a) above they shall keep that decision under regular review and shall in any case review such decision annually.

Gifts

38. The Trustees may accept gifts for the general purposes of the Charity and may also accept gifts for any special objects connected with the Charity which are not inconsistent with this Scheme.

Appropriation of benefits

39. Subject to Clause 25 of this Scheme 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.

Trustees not to be personally interested

40. 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.

Charity not to relieve public funds

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

Questions under the Scheme

42. 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 may be determined by the Commissioners upon such application made to them for the purpose as they think fit.

SCHEDULE

The following land situate at Hemel Hempstead in the County of Hertfordshire:

Freehold land

<i>Description</i>	<i>Field No.</i>	<i>Size in hectares</i>
Snook's Moor	1513	3.13
Snoxall's Moor	4606	3.26

<i>Description</i>	<i>Field No.</i>	<i>Size in hectares</i>
Herdsman's Moor	8995	0.63
	6999	2.97
Fishery Moor	1007	3.53
Old Fishery (part)	5918	1.55
Station Moor	5708	6.25
Harding's Moor	9898	6.38
Bulbourne Meadow	2496	4.01
Lock Cottage	2702	0.23
Railway Embankment	2984	0.23
Chaulden Meadow	8031	4.26
Lower Roughdown	6864	4.82
Upper Roughdown	2770	4.14
Further Roughdown	9554	2.77
Blackbird's Moor	8822	5.58
Heath Park	1411	3.16
Heath Park Car Park	3616	0.14
War Memorial Gardens	2419	0.32
St. John's Garden	0817	0.39
Plough Gardens	4423	1.64
Sheethanger Common	7424	16.48
Bury Wood	1500	6.96
	0333	0.18
	0414	0.13
London Road Verges	0604	0.28
	7292	0.15
	4398	0.04
Balderson's Moor	4108	1.55
Bulbourne Moor	4094	1.27
Two Waters Moor West	3581	1.03
Two Waters Moor East	4774	0.61
Apsley Triangle (part)	5568	0.36
Two Waters Halt	4886	0.10

A total of 88.53 hectares at Boxmoor in the Borough of Dacorum, Hertfordshire.

Sealed by Order of the Commissioners this day of 1999.

L.S.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a Scheme of the Charity Commissioners for the Charity presently known as the Boxmoor Estate. The Charity is of ancient origin being founded in 1594 and is now regulated by the Boxmoor Act 1809 (“the Act”) and various Schemes of the Charity Commissioners (“the old Schemes”).

The present Scheme replaces most of the provisions the Act, and all of the old Schemes. The name of the Charity is changed to the Box Moor Trust which reflects the proper designation of the area as Box Moor. A new body of Trustees is created, which (subject to transitional arrangements) will in future be democratically elected. The area of benefit of the Charity is now clearly identified by means of a deposited map prepared by the Ordinance Survey. The constitution and powers of the Trustees are modernised.

Provision is made for the Charity’s land (other than land held as an investment) to be held for the purposes of public recreation and such recreational land is identified in the Schedule to the Scheme. There is power to purchase additional land for recreational purposes.

There is power to apply the Charity’s surplus income for various purposes within the Charity’s area of benefit. Those purposes include the relief of the aged, sick, disabled and poor people, the promotion of recreational facilities and the advancement of education.

The deposited plan referred to in the Scheme may be examined by any member of the public, by appointment, during normal office hours, at the London office of the Charity Commissioners for England and Wales.