

2018 No. 885 (W. 174)

EDUCATION, WALES

The Diocese of St Davids
(Educational Endowments) (St
Clears Church in Wales School)
(Wales) Order 2018

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints St Davids Diocesan Trust as trustee of the endowment of the educational foundation known as the St Clears School Foundation (formerly known as St Clears National School) and makes new provision as to the use of that endowment. It creates two separate trusts, called the School Fund and the Religious Education Fund, and divides the Foundation's assets between them.

The School Fund is established under the uniform statutory trusts as set out in the Schedule for the benefit of the Church in Wales voluntary and foundation schools in the Diocese.

The Religious Education Fund is established for the purpose of providing religious education in accordance with the doctrines of the Church in Wales within the parish in which the school was situated.

The Order also extinguishes the rights to which any person has become entitled, under any trust which has arisen by virtue of section 1 of the Reverter of Sites Act 1987, in respect of the endowment.

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(Educational Endowments) (St
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(Wales) Order 2018**

Made 18 July 2018

Coming into force 31 July 2018

The Endowment has been shown to the satisfaction of the Welsh Ministers to be or to have been used in connection with the provision of religious education in accordance with the tenets of the Church in Wales at a voluntary school within the meaning of section 32 of the Education Act 1996⁽¹⁾, the premises of which have ceased to be used for the purposes of a school, and that the requirements of section 554(3) of the Education Act 1996 are fulfilled.

Application for an Order making new provision for the use of the Endowment has been made to the Welsh Ministers by the St Davids Diocesan Trust, which body appears to the Welsh Ministers to be the appropriate authority of the Church in Wales for that purpose.

Notice of the proposed Order and of the right of persons interested to make representations has been given in accordance with the provisions of section 555 of the Education Act 1996.

No representations have been made on the proposed Order.

The Foundation assets consist of £73,500.00, being the net proceeds of sale of the premises of the former

(1) 1996 c. 56. This section has since been repealed by paragraph 69 of Schedule 30 and Schedule 31 to the School Standards and Framework Act 1998 (c. 31).

school and school house comprised in the Founding deeds and also any income derived from those assets before the coming into force of this Order.

By virtue of section 1 of the Reverter of Sites Act 1987 (“the 1987 Act”) a trust has or may have arisen in relation to the site of the above school and school house comprised in the Founding deeds. The Welsh Ministers are satisfied that all reasonably practicable steps to trace any person who is, or who may become, entitled as a beneficiary under that trust have been taken and that there is no claim by any such person which comes within the provisions of section 5(2)(a) of the 1987 Act.

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 554 and 556 of the Education Act 1996 and section 5 of the Reverter of Sites Act 1987(1), and now vested in them make the following Order(2):

Title, commencement and application

1.—(1) The title of this Order is the Diocese of St Davids (Educational Endowments) (St Clears Church in Wales School) (Wales) Order 2018 and it comes into force on 31 July 2018.

(2) This Order applies in relation to Wales.

Interpretation

2. In this Order unless the context otherwise requires—

“the Diocese” (“*yr Esgobaeth*”) means the Diocese of St Davids and “the Diocesan Trust” (“*yr Ymddiriedolaeth Esgobaethol*”) is to be construed accordingly;

“the Endowment” (“*y Gwaddol*”) means the endowment comprised in the Founding deeds;

(1) 1987 c. 15.

(2) 1996 c. 56. Section 554(1) was substituted by paragraph 168(2) of Schedule 30 to the School Standards and Framework Act 1998 (c. 15). Section 554(3)(a) was substituted by paragraph 168(3) of Schedule 30 to the School Standards and Framework Act 1998. Section 554(3)(b) was amended by paragraph 168(3)(b) of Schedule 30 to the School Standards and Framework Act 1998. Section 556(2)(a) was amended by paragraph 169(a) of Schedule 30 to the School Standards and Framework Act 1998. Section 556(2)(b) was amended by paragraph 169(b) of Schedule 30 to the School Standards and Framework Act 1998. The functions of the Secretary of State under sections 554 and 556 of the Education Act 1996 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

“the Foundation” (“*y Sefydliad*”) means the educational foundation known as the St Clears School Foundation established by the Founding deeds;

“the Foundation assets” (“*asedau’r Sefydliad*”) means the assets currently representing the Endowment;

“foundation school” (“*ysgol sefydledig*”) has the same meaning as in the School Standards and Framework Act 1998⁽¹⁾;

“the Founding deeds” (“*y gweithredoedd Sefydlu*”) means the deeds made on—

- (i) 20 December 1905 between the Reverend David Pugh of the one part and the Right Reverend Father in God John Owen Lord Bishop of St Davids, the Venerable Owen Evans Archdeacon of Carmarthen, the Reverend Charles Frederick Owen, the Reverend John Thomas Rural Dean of St Davids and Mr Lewis Pritchard Jones of the other part; and
- (ii) 20 September 1940 between Martha John, Ester John and Agnes John of the one part and the St Davids Diocesan Board of Finance of the other part;

“the Religious Education Fund” (“*y Gronfa Addysg Grefyddol*”) means the religious education fund established by article 5(b);

“the School Fund” (“*y Gronfa Ysgolion*”) means the school fund established by article 5(a); and

“voluntary school” (“*ysgol wirfoddol*”) has the same meaning as in the School Standards and Framework Act 1998.

Extinguishment of rights under a Reverter of Sites Act Trust

3. The rights of any person who is or may become entitled as a beneficiary under the trust which has or may have arisen by virtue of section 1 of the Reverter of Sites Act 1987 in respect of the land comprised in the Endowment are extinguished by this Order.

Trustee and vesting

4.—(1) This Order appoints the Diocesan Trust to be Trustee of—

- (a) the Foundation,
- (b) the Foundation assets,
- (c) the School Fund, and

(1) 1998 c. 31.

(d) the Religious Education Fund.

(2) All funds which immediately before the date of this Order belong to or are held in trust for the Foundation, (other than any funds already held by the Diocesan Trust) are to be transferred to the Diocesan Trust, and all acts necessary for that purpose are to be done by any person holding such funds.

Division of Assets

5. The Foundation assets are to be divided into two separate trust funds namely—

- (a) the School Fund comprising 11/14ths of the Foundation assets; and
- (b) the Religious Education Fund comprising 3/14ths of the Foundation assets.

Administration of Foundation

6.—(1) After payment of any expenses of administration, the Diocesan Trust must account for that proportion of the capital and income of the Foundation assets which represents the Religious Education Fund to the Vicar, or Rector, and Churchwardens of the parish for which the Foundation was established to provide religious education.

(2) Each Vicar, or Rector, and Churchwardens to whom payment is made in accordance with the provisions of the preceding paragraph are to be constituted as trustees of the Religious Education Fund and may retain the capital of the Fund and may apply the accruing income thereof, or may apply the capital thereof, towards educational purposes related to the said parish in connection with the provision of religious education in accordance with the tenets of the Church in Wales by means of a Sunday School or otherwise.

(3) The Diocesan Trust is to hold the School Fund on the uniform statutory trusts for the benefit of Church in Wales voluntary or foundation schools within the Diocese.

(4) In this article “uniform statutory trusts” (“*ymddiriedolaethau statudol unffurf*”) means the trusts set out in the Schedule (being the uniform statutory trusts set out in Schedule 36 to the Education Act 1996 as they apply in relation to the School Fund).

Consolidation

7. The School Fund may be consolidated with any existing endowment held for the purposes specified in the Schedule.

Kirsty Williams
Cabinet Secretary for Education, one of the Welsh
Ministers

18 July 2018

SCHEDULE Article 6(4)

1. The Diocesan Trust may, after payment of any expenses incurred in connection with the administration of the School Fund, apply the capital and income of that School Fund for any of the following purposes—

- (a) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of any relevant school in the Diocese;
- (b) for the maintenance of any relevant school in the Diocese;
- (c) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of a teacher's house for use in connection with any relevant school in the Diocese; and
- (d) for the maintenance of a teacher's house for use in connection with any relevant school in the Diocese.

2. The Diocesan Trust may also, after payment of any expenses incurred in connection with the administration of the School Fund, apply the income of that Fund for any of the following purposes—

- (a) in or towards the provision of advice, guidance and resources (including materials) in connection with any matter related to the management of, or education provided at, any relevant school in the Diocese;
- (b) the provision of services for the carrying out of any inspection of any relevant school in the Diocese required by Part 1 of the Education Act 2005⁽¹⁾; and
- (c) to defray the cost of employing or engaging staff in connection with—
 - (i) the application of income of the School Fund for either of the purposes referred to in sub-paragraphs (a) and (b),
 - (ii) the application of capital or income of the School Fund for any of the purposes referred to in paragraph 1.

3. “Relevant school” (“*ysgol berthnasol*”) means a school of the type referred to in article 6(3).

(1) 2005 c. 18.