

Witness Name: Alice Mackie

Statement No.: WITN2189005

Exhibits: WITN2189006 – WITN2189065

Dated: 30th April 2021

INFECTED BLOOD INQUIRY

EXHIBIT WITN2189057

SCHEDULE 4 [TO TRUST DEED]

MODIFICATION OF THE APPLICATION OF THE PROVISIONS OF THE TRUST DEED IN SCOTLAND

1. Any reference to Category g or Category g plaintiff means:-

(a) any pursuers who have prior to 13 December 1990 instituted any action or proceedings before the Scottish Courts against the Secretary of State or any health service body alleging injury arising from treatment of that person or any other person with Factor VIII, Factor IX (whether cryoprecipitate or concentrate), and

(b) any person who has prior to 13 December 1990 presented a legal aid application to the Scottish Legal Aid Board in contemplation of any such action or proceedings,

and where in either case those persons or pursuers have not sero-converted and/or been infected with HIV to their knowledge, but are at risk of doing so because they are the intimates of haemophiliacs who have sero-converted and/or been infected with HIV or developed AIDS.

2. Any reference to "children" or "dependant children" means:-

(1) any minor or pupil child liable to be maintained by a person who is a beneficiary under the provisions of this Deed of Trust,

(2) any unborn child who when born would be liable to be so maintained, and

(3) any person over the age of 18 in full-time education liable to be so maintained, except when that full-time education is provided by that person's employer as part of his terms and conditions of employment, or where that person receives payment from a person or body with whom he has undertaken to work on completion of his education.

3. Any reference to a person under a disability shall be taken to mean a person who is an incapax and in respect of whom a curator bonis has been appointed.

4. Any reference to the Secretary of State in connection with the grant of an undertaking shall mean the Secretary of State for Scotland.

5. The provisions of clauses 9, 10, 11, 13, 14 and 15 shall be read as subject to the following modifications:-

(a) in each of the clauses referred to the period of three months shall date from the date upon which the person to whom payment may be made shall have received notice of entitlement in terms of the provisions of this Trust Deed;

(b) in each of the clauses referred to above the undertaking shall be in the form set out in Schedule 3 hereto;

(c) in clause 10 sub-paragraph (b) shall not apply.

6. Clauses 12 and 16 shall have no effect and the following provisions shall apply in their place:-

(1) If the Trustees are satisfied that any person who is or may become entitled to a payment under the Deed, has died and was at the date of his death:

(a) married but childless, then the provisions of sub paragraph (2) will apply,

(b) a haemophiliac with children, then the provision of sub paragraphs (3) and (4) will apply,

(c) an infant, a single adult, married but childless (other than a person to whom sub paragraph 2 applies), an intimate, or a haemophiliac with children (other than a person to whom sub paragraph (3) and (4) apply), then the provisions of sub paragraph (5) shall apply

(d) survived by a parent or parents then the provisions of sub paragraph (6) will apply.

(2) In any case to which sub paragraph 1(a) applies and where the Trustees are further satisfied that that person was at the date of death living with his spouse in the same household, they shall pay to that spouse the appropriate sum specified in clause 3 above provided that that spouse:-

(a) has applied to the Trustees for payment within three months of the date on which the spouse shall have received notice of the provisions of the Trust Deed, and

(b) gives an undertaking in the form set out in Schedule 3 hereto.

(3) In any case to which sub paragraph (1)(b) above applies the Trustees shall make payment of the appropriate sum under clause 3 of the Declaration of Trust as follows:

(a) where the deceased was at date of death living with his spouse in the same household then one half of the appropriate sum shall be paid to the spouse and the remaining half shall be payable as if sub-paragraph (b) below applied;

(b) where the deceased was not at date of death living with his spouse in the same household then the appropriate sum shall be paid to the [guardian or curator.] for the children except that if any of the children is aged 18 or over at the date of death of the deceased the Trustees shall pay a proportion of the sum payable to that child calculated in accordance with sub-paragraph (4) below.

(4) In any case in which a sum is payable to a child aged 17 or over in terms of sub-paragraph 3(b) above that sum shall be calculated by dividing the total sum payable for behoof of the children by the number of children concerned.

(5) In any case in which sub paragraph 1(c) applies they shall pay to that person's personal representatives the appropriate sum specified in the said clause 3

(6) In any case to which sub paragraph 1(d) applies the Trustees shall pay out of the appropriate sum specified in the said Clause 3 the sum of £2,000 to each parent the balance of the appropriate sum to be payable in terms of this Schedule,

provided that where any such parent claims in a case to which sub paragraph (2) above also applies then the sum payable to that parent shall be deducted in equal parts from the sums otherwise payable to the spouse and for behoof of the children.

(7) The Trustees shall not be required to make any payment in terms of this schedule except where:

(a) the person to whom payment is to be made shall have applied for payment within 3 months of the date on which the person received notice of the entitlement of the deceased in terms of the provisions of the Trust Deed, and

(b) gives an undertaking in the form set out in Schedule 3 hereto.