

CHAPTER x.

An Act to provide for the pooling of investments and moneys of certain endowment funds of the University of Birmingham and for other purposes.

[30th June 1948.]

WHEREAS—

(1) The University of Birmingham (hereinafter called "the University") was established and incorporated by royal charter dated the twenty-fourth day of March one thousand nine hundred with faculties and powers as therein provided and by the Birmingham University Act 1900 the property of the Mason University College previously existing in the city of Birmingham was transferred to the University: 63 & 64 Vict. c. xix.

(2) The University enjoys the benefit of numerous endowment funds the investments of which are held by and in the name of the University but as separate holdings on behalf of the particular funds to which they respectively relate and it is anticipated that from time to time in future the University will become the holder of the investments of other endowment funds similarly held and enuring for the benefit of the University:

(3) It would be convenient and advantageous for the purposes of the administration of such funds and beneficial with a view to their maintenance and augmentation if the investments belonging to such funds respectively or many of such investments were pooled and the capital value of the investments pooled and the income arising from time to time therefrom were apportioned in the manner provided in this Act

among the funds to which such investments respectively belong and it is accordingly expedient that the provisions of this Act with respect to such pooling and apportionment should be enacted:

(4) It is expedient that the other provisions contained in this Act be enacted:

(5) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title.

1. This Act may be cited as the Birmingham University Act 1948.

Interpretation.

2. In this Act unless the context otherwise requires—

" the University " means the University of Birmingham;

" the council " means the council of the University;

" the treasurer " means the treasurer of the University;

" the auditor " means the auditor of the University accounts;

" the appointed day " means the first day of August one thousand nine hundred and forty-eight;

" financial year " means the yearly period commencing on the first day of August in each year or other the yearly period for which the accounts and financial affairs of the University are for the time being made up arranged and calculated;

" endowment fund " means a fund which is applicable for the benefit of the University or any work purpose or feature thereof and the investments of which are for the time being held by and in the name of the University;

" trustee securities endowment fund " means an endowment fund the investments of which are by reason of the provisions of an instrument (including an Act of Parliament) relating to that fund to be confined to trustee securities or ought in the opinion of the council to be so confined;

" the certified capital value " means in reference to any investment with respect to which the expression is used the capital value of that investment as certified by the treasurer or the auditor (as the case may be) in pursuance of the provisions of section 5 (Certification of capital values of investments) of this Act;

" the trustee securities pool " means the trustee securities pool set up in pursuance of the provisions of section 3 (Pooling of investments) of this Act;

" the general pool " means the general investment pool set up in pursuance of the provisions of section 3 (Pooling of investments) of this Act;

" trustee securities " means securities in which trustees are for the time being by law authorised to invest trust money;

" shareholding " means in regard to the trustee securities pool or the general pool and in reference to any endowment fund with respect to which the expression is used the aggregate of the shares in that pool to which such fund is entitled.

Pooling of investments.

3.—(1) The council shall on the appointed day set up and shall thereafter maintain two investment pools which shall be called respectively " the trustee securities pool " and " the general investment pool " and shall be administered respectively by the council in the manner provided in this Act.

(2) On or at any time after the appointed day the council may carry into the trustee securities pool any trustee securities belonging for the time being to any trustee securities endowment fund and any money (being a multiple of five pounds) belonging for the time being to any trustee securities endowment fund.

(3) On or at any time after the appointed day the council may carry into the general pool any investments belonging for the time being to any endowment fund other than a trustee securities endowment fund and any money (being a multiple of five pounds) belonging for the time being to any endowment fund other than a trustee securities endowment fund The council shall not carry into the general pool any investment or money belonging to any trustee securities endowment fund.

(4) The aggregate amount of the certified capital values of all the investments belonging to any endowment fund which are carried into the trustee securities pool or the general pool (as the case may be) at any one time in pursuance of the provisions of this section shall be divided into even sums of five pounds each the values of the investments being their values at the date when they are carried into such pool and any fraction of five pounds under one-half being ignored and any fraction of five pounds not under one-half being reckoned as five pounds In respect of each such sum of five pounds the endowment fund to which the investments belong shall be entitled as from the date when the investments are carried into such pool to a share having the nominal value of five pounds in such pool.

(5) In respect of each sum of five pounds comprised in any money belonging to any endowment fund carried into the trustee securities pool or the general pool (as the case may be) at any one time in pursuance of the provisions of this section that fund shall be entitled as from the date when the money is carried into such pool to a share having the nominal value of five pounds in such pool.

Administration of the investment pools.

4.—(1) Any amount of money for the time being in the trustee securities pool and available for investment shall be invested in the name of the University in trustee securities.

(2) Any amount of money for the time being in the general pool and available for investment shall be invested in the name of the University in the purchase of or on the security of such stocks funds shares securities and other investments (including land of any tenure or any interest therein) of whatsoever nature and wheresoever and whether involving liability or not and whether or not authorised by law for the investment of trust funds and generally in such manner as the council shall in their uncontrolled discretion think fit.

(3) Any amount of money for the time being comprised in the trustee securities pool or the general pool and awaiting investment may be paid by the council into a bank to a deposit or other account in the name of the University and all interest (if any) payable in respect thereof shall be applied as if it were income from an investment comprised in that pool.

(4) At any time after the appointed day the council if for any of the purposes of any endowment fund they require to realise any shares forming the whole or any part of the shareholding of that fund in the trustee securities pool or the general pool may effect such realisation by cancelling such shares and withdrawing from the pool in which such shares are held either—

(*a*) an amount of money equal to the aggregate nominal value of the shares so cancelled; or

(*b*) investments the certified capital value of which (as at the date of such withdrawal) is equal to such aggregate nominal value any fraction of five pounds in excess of five pounds or a multiple of five pounds of such capital value being if under one-half ignored and if not under one-half reckoned as five pounds; or

(*c*) an amount equal to such aggregate nominal value and composed partly of money and partly of investments the certified capital value of which (reckoning any fraction of five pounds in excess of five pounds or a multiple of five pounds of such capital value in the manner aforesaid) when added to the amount of such money gives a total amount equal to such aggregate nominal value.

(5) The council may at any time sell for the best price obtainable any of the investments for the time being comprised in the trustee securities pool or the general pool if such sale is required for the purpose of the realisation of any shares forming the whole or part of the shareholding of any endowment fund in that pool or is thought by the council expedient with a view to the re-investment of the proceeds of sale in another investment or other investments.

(6) The income arising from the investments comprised from time to time in the trustee securities pool and the general pool respectively shall be dealt with in the manner specified in section 6 (Apportionment of income from pooled investments) of this Act.

Certification of capital values of investments.

5. Whenever the capital value of any investment requires for any purpose of this Act to be certified the amount of such capital value shall be certified in writing by the treasurer:

Provided that the council may if they think fit require that the value certified by the treasurer shall be revised by the auditor and in that event the auditor after consultation with the treasurer shall certify in writing the capital value of the investment and his certificate shall be substituted for that of the treasurer.

For the purpose of any such certification the treasurer or the auditor as the case may be shall ascertain calculate or estimate the capital value of the investment upon such basis as is in his judgment the most accurate and reliable basis available and in the case of any security for which reliable market prices are available the valuation shall be based on the mid-market price.

Apportionment of income from pooled investments.

6.—(1) The net amount of the aggregate income for any financial year from the investments comprised in the trustee securities pool or the general pool after deduction of—

(*a*) any expenses of administration of that pool;

(*b*) any amount which may be retained in that pool in pursuance of the provisions of subsection (2) of this section; and

(*c*) any amount set aside in pursuance of the provisions of subsection (3) of this section;

shall be apportioned among the endowment funds entitled to shares in that pool in proportion to the nominal value of the respective shareholdings of such funds in that pool and in the case of any share to which an endowment fund was entitled during only a part of that year after paying due regard to the period within such year during which that fund was entitled to that share.

(2) The council may retain in the trustee securities pool or the general pool and carry to a reserve fund in the accounts of that pool at the end of any financial year any such amount of income from the investments comprised in that pool not exceeding three per centum upon the gross aggregate amount of such income for that year as the council may consider it expedient to reserve with a view to supplementing the income from the investments comprised in that pool to be apportioned in any subsequent year and so helping to equalise the rates of the annual distributions of income in respect of that pool The whole or any part of the income thus held in reserve for the time being in the trustee securities pool or the general pool may be applied at the discretion of the council by way of addition to the amount of income otherwise falling to be apportioned in respect of any subsequent year among the endowment funds entitled to shares in that pool and as if it were part of that income.

(3) Where any investment of a redeemable or terminable nature has been purchased for or transferred to the trustee securities pool or the general pool at a price which would but for the provisions of this subsection result in a capital loss on the redemption or termination of such investment the council may set aside to a capital redemption account out of the annual income from the investments comprised in the trustee securities pool or the general pool as the case may be such sum or sums as in the aggregate shall not be greater than the amount of such capital loss Any sums so set aside shall be invested by the council and the capital and income of such investments shall respectively form part of the capital and income of the trustee securities pool or the general pool as the case may be.

(4) If and when the council in pursuance of the provisions of section 4 (Administration of the investment pools) of this Act withdraw from the trustee securities pool or the general pool or sell any investment in respect of which any sum or sums has or have been set aside to a capital redemption account under this section the amount then standing to the credit of such account in respect of such investment shall be cancelled and enure for the general benefit of the pool to which it relates.

(5) The council shall apportion between the trustee securities pool and the general pool any expenses of administration incurred jointly for both of those pools in respect of any financial year.

Increase or reduction of nominal value of shares in an investment pool.

7.—(1) The treasurer and the auditor shall as soon as practicable after the end of each financial year and at any other time if so required by the council respectively make to the council a report on the investments for the time being com-

prised in the trustee securities pool and in the general pool and if at any time the council after investigation and after receiving such reports shall come to the conclusion that by reason of appreciation or depreciation of the values of investments or by reason of the cancellation of any sum standing to the credit of a capital redemption account in pursuance of the provisions of subsection (4) of section 6 (Apportionment of income from pooled investments) of this Act the aggregate amount of the capital values of the investments and any money for the time being comprised in the trustee securities pool or the general pool is substantially greater or substantially less than the aggregate amount of the shareholdings of all the endowment funds entitled for the time being to share in that pool the council shall make such an addition to or reduction of the nominal value of each share in that pool as the council may deem appropriate under the circumstances:

Provided that the amount of any such addition or reduction (as the case may be) shall be such that the aggregate amount of the additions or reductions so made to or from the nominal value of the shares in that pool shall not exceed the amount by which the aggregate amount of the capital values of the investments and any money for the time being comprised in that pool is greater or less (as the case may be) than the aggregate nominal value of the shareholdings of all the endowment funds entitled for the time being to shares in that pool.

(2) After the making of an alteration in the nominal value of each share in the trustee securities pool or the general pool in pursuance of subsection (1) of this section any reference to "five pounds" in any provision of section 3 (Pooling of investments) or section 4 (Administration of the investment pools) of this Act shall for the purposes of the subsequent operation of the provision in which such reference occurs so far as such provision concerns the pool in respect of which such alteration of nominal values of shares has been made have effect as if it referred to the nominal value of each share in that pool as so altered.

Effect of Act on operation of instruments.

8. This Act shall have effect notwithstanding the provisions of any instrument relating to any endowment fund.

Costs of Act.

9. All costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the University out of the general funds of the University.

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