

ELIZABETH II



1965 CHAPTER xix

An Act to transfer the Leeds General Cemetery to The University of Leeds, to make provision for the improvement and maintenance thereof by The University of Leeds as a garden and open space within the University precincts, to enact provisions with regard to The University of Leeds; and for other purposes. [5th August 1965]

WHEREAS—

(1) The Leeds General Cemetery in the city of Leeds is owned by The Leeds General Cemetery Company Limited:

(2) The whole of the issued share capital of the said company is owned by The University of Leeds:

(3) The proximity to each other of many of the graves in the said cemetery and the great decline in the revenue of the said company make it impracticable for the said cemetery to be adequately maintained:

(4) The site of the said cemetery is surrounded by buildings belonging to and used for the purposes of The University of Leeds and The University of Leeds are desirous of carrying out works of restoration and improvement of the said cemetery as a garden and open space within the University precincts:

(5) It is expedient accordingly that the said cemetery should be vested in The University of Leeds and that the said University should be enabled to carry out such works of restoration and improvement and that such further provision should be made with respect to the maintenance of the said cemetery as a garden and open space within the University precincts as is in this Act contained:

(6) It is expedient to make provision for the pooling of the investments of The University of Leeds and the various trust funds held by or on behalf of the said University and as to their investments:

(7) It is expedient that the other provisions in this Act should be enacted:

(8) The purposes of this Act cannot be effected without the authority of Parliament:

(9) A plan of the lands required or which may be taken for the purposes or under the powers of this Act and also a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands have been duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the town clerk of the city of Leeds, which plan and book of reference are in this Act referred to respectively as the deposited plan and the deposited book of reference:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen'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:—

PART I

PRELIMINARY

Short and
collective
titles.

c. xxxv.

Division of
Act into
Parts.

1. This Act may be cited as the University of Leeds Act 1965 and the University of Leeds Act 1904 and this Act may be cited together as the University of Leeds Acts 1904 and 1965.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Leeds General Cemetery.

Part III.—Pooling of investments, etc.

Part IV.—General.

3.—(1) In this Act, unless the subject or context otherwise requires, the following expressions have the following meanings:—

PART I
—cont.

Interpretation.

“ the company ” means The Leeds General Cemetery Company Limited;

“ the cemetery ” means the land numbered 1, 2 and 3 on the deposited plan in the city of Leeds commonly called the Leeds General Cemetery;

“ grave ” includes a grave space, vault, niche or urn;

“ memorial ” includes a monument, gravestone, tablet, tombstone, headstone, kerbstone, railings, vase and any other ornament placed or erected on any grave;

“ right of burial ” means an exclusive right of burial in any part of the cemetery granted by the company;

“ structure and convenience ” includes huts, sheds, shelters and other similar erections but does not include a structure or convenience of such a nature that its construction will cause the disturbance of the remains of any deceased person;

“ the University ” means The University of Leeds.

(2) Except where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

PART II

LEEDS GENERAL CEMETERY

4. On the passing of this Act the freehold interest of the company in the cemetery shall by virtue of this Act be transferred to and vested in the University without any deed of conveyance freed and discharged from all trusts, uses, purposes, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto and from all rights of burial and all rights and interests of any person who is an heir, executor, administrator or relative of any deceased person whose remains are interred in the cemetery.

Vesting in
University of
cemetery.

5.—(1) The University shall hold and administer the cemetery as a garden and open space within the University precincts accessible to the public to such extent, at such times and in such manner as the University may from time to time determine.

Management
of cemetery
as open
space.

PART II
—cont.

(2) For the purpose of restoring and keeping the cemetery in a good and decent state as a garden and open space as aforesaid and maintaining it as such the University may—

- (a) enclose it or any part thereof or keep it or any part thereof enclosed with walls, railings or fences, and gates;
- (b) lay out and maintain or take up or cover over and extinguish paths, walks or terraces therein;
- (c) provide, furnish and maintain therein structures and conveniences;
- (d) turf, plant, ornament, light, provide with seats and otherwise improve it;
- (e) do all such other ancillary works or things as may be required.

Power to
maintain,
lower, cover
up and
remove
memorials.

6.—(1) In addition to their powers under subsection (2) of section 5 (Management of cemetery as open space) of this Act the University may, subject to the provisions of this Act—

- (a) remove and if they think fit use or dispose of any memorial in the cemetery;
- (b) level or raise the surface of the ground in the cemetery notwithstanding that there may be graves thereunder or memorials thereon;
- (c) move any memorial in the cemetery to a different position therein or lower any such memorial to the level of the ground or cover the same with soil;
- (d) put and keep in order any grave or memorial in the cemetery.

(2) The University shall cause to be made a record of any memorial which may be covered, moved, lowered or removed under the powers of subsection (1) of this section showing the particulars respecting each such memorial as a separate entry and copies of such record shall be deposited with the Registrar General.

Notice of
works
affecting
memorials.

7.—(1) (a) Before moving, lowering, covering or removing any memorial relating to the remains of any deceased person under section 6 (Power to maintain, lower, cover up and remove memorials) of this Act the University shall—

- (i) publish notice of their intention so to do once in each of two successive weeks in a local newspaper circulating in the city of Leeds with an interval between the dates of publication of not less than six clear days; and
- (ii) display a notice thereof in a conspicuous position in the cemetery.

(b) Each of the notices shall—

- (i) contain brief particulars of the works intended to be executed; and

- (ii) specify a date as being that on which it is intended that the University will begin to execute those works which shall be a date not less than two months after the date of the earlier of the two publications or after the date on which the notice in the cemetery is first displayed.

(2) (a) At any time before the date specified in a notice under subsection (1) of this section in relation to any memorial relating to the remains of any deceased person, any person who is a personal representative or relative of the deceased person may give notice to the University of his intention to undertake the removal of that memorial and thereupon subject to the provisions of paragraphs (b) and (c) of this subsection he shall be at liberty to remove that memorial from the cemetery at his own expense.

(b) If any person giving such notice as aforesaid shall fail to satisfy the University that he is such personal representative or relative as he claims to be the question shall be determined on the application of either party in a summary manner by the registrar of the Leeds county court who shall have power to make an order specifying who shall remove the memorial.

(c) If such person shall not have removed such memorial from the cemetery within one month after the service by him of a notice under paragraph (a) of this subsection or (if application shall have been made to the registrar under paragraph (b) of this subsection) within one month after the making of an order under that paragraph the University may exercise the powers under the said section 6 of this Act with regard to that memorial.

8.—(1) On and from the 1st October, 1965, it shall not be lawful for any further interment to take place in the cemetery except with the consent of the University.

Discontinu-
ance of
interments
in
cemetery.

(2) Subject to the provisions of this section, the University shall at their option either make compensation to or provide in some other burial ground in which burials may legally take place a grave space or grave spaces for such persons as had immediately before the passing of this Act a right of burial:

Provided that—

- (i) the amount of compensation shall in no case exceed the sum paid to the company by any such person or his predecessors in title for such right of burial;
- (ii) such persons shall give notice in writing of their claim to the University within twelve months from the passing of this Act; and
- (iii) the University shall not be required either to make compensation or to provide a grave space in respect of

PART II
—cont.

any right of burial which by virtue of a consent given under subsection (1) of this section continues to be exercisable.

(3) Any difference arising under this section shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed on the application of either party, after notice in writing to the other, by the President of the Royal Institution of Chartered Surveyors.

(4) (a) The University shall within three months after the passing of this Act give public notice of the effect of this section by advertisement in two or more daily newspapers circulating in the city of Leeds.

(b) Copies of newspapers containing the notice shall be sufficient evidence that the provisions of this subsection have been complied with.

Determination
of certain
agreements.

9.—(1) On the passing of this Act all agreements entered into by the company for the maintenance of graves in the cemetery shall cease to have effect.

(2) Subject to the provisions of this section, the University shall make compensation to such persons as immediately before the passing of this Act were entitled to the benefit of any such agreement as is referred to in subsection (1) of this section:

Provided that—

- (i) the amount of compensation shall in no case exceed the sum paid to the company by such persons as consideration for the company entering into the agreements; and
- (ii) such persons shall give notice in writing of their claim to the University within twelve months from the passing of this Act.

(3) Any difference arising under this section shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed on the application of either party, after notice in writing to the other, by the President of the Royal Institution of Chartered Surveyors.

(4) (a) The University shall within three months after the passing of this Act give public notice of the effect of this section by advertisement in two or more daily newspapers circulating in the city of Leeds.

(b) Copies of newspapers containing the notice shall be sufficient evidence that the provisions of this subsection have been complied with.

10.—(1) In this section—

PART II
—cont.

“ the Commission ” means the Commonwealth War Graves Commission;

For protection
of Common-
wealth War
Graves
Commission.

“ Commonwealth war burial ” means a burial of any officer or man of the naval, military or air forces of His Majesty fallen in the war of 1914 to 1921 or in the war of 1939 to 1947.

(2) Within six months after the passing of this Act the University shall in accordance with such arrangements and in such manner (including the disposal of the memorial) as shall be agreed in writing with the Commission remove any memorial placed or erected by the Commission over any grave in the cemetery in which there is a Commonwealth war burial.

(3) Upon the removal in pursuance of any of the powers of this Act of any memorial from any grave in the cemetery in which there is a Commonwealth war burial no other memorial shall be placed or erected over such grave.

(4) Any Commonwealth war burial in any grave in the cemetery shall at all times be protected from interference or disturbance otherwise than interference or disturbance authorised by a licence granted by the Secretary of State after prior notification to the Commission of the application for the licence.

(5) No structure or erection shall be placed or erected over any Commonwealth war burial in the cemetery.

PART III

POOLING OF INVESTMENTS, ETC.

11. In this Part of this Act, unless the subject or context otherwise requires, the following expressions have the following meanings:—

Definitions
in Part III.

“ accounting period ” means the yearly period commencing on 1st August in each year or other the period for which the accounts and financial affairs of the University are for the time being made up, arranged and calculated;

“ the operative date ” means such day as the council may by resolution passed in pursuance of section 12 (Adoption of Part III) of this Act determine;

“ 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 auditor of the University in pursuance of the provisions of section 15 (Certification of capital values of investments) of this Act;

PART III
—cont.

“ the council ” means the council of the University;

“ endowment fund ” means a fund which is applicable for the benefit of the University or the members thereof 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;

“ the general pool ” means the general investment pool set up in pursuance of the provisions of section 13 (Pooling of investments) of this Act;

“ investment unit ” means a share in the trustee investments pool or the general pool (as the case may be) of the value determined from time to time pursuant to section 17 (Increase or reduction of value of investment unit) of this Act;

“ shareholding ” means, in regard to the trustee investments pool or the general pool and in reference to any endowment fund with respect to which the expression is used, the aggregate of the investment units in that pool to which such fund is entitled;

“ trustee investments endowment fund ” means an endowment fund comprising money or other property which by reason of the provisions of an instrument (including an Act of Parliament) may be invested only in the manner and subject to the restrictions for the time being authorised and imposed by law for and concerning the investment of property in the hands of trustees;

“ the trustee investments pool ” means the trustee investments pool set up in pursuance of the provisions of section 13 (Pooling of investments) of this Act.

Adoption of
Part III.

12. If the council so resolve, the provisions of this Part of this Act shall apply to the University and the council on and after such date as may be determined in the resolution.

Pooling of
investments.

13.—(1) The council shall, on the operative date, set up and shall thereafter maintain two investment pools which shall be called respectively “ the trustee investments pool ” and “ the general pool ” and shall be administered respectively by the council in the manner provided in this Part of this Act.

(2) On, or at any time after, the operative date the council may carry into the trustee investments pool any money and investments belonging for the time being to any trustee investments endowment fund being investments in which the trustees are authorised by law to invest property representing such trustee investments endowment fund.

(3) On, or at any time after, the operative date the council may carry into the general pool any money and investments belonging for the time being to any endowment fund, other than a trustee investments endowment fund. The council shall not carry into the general pool any investment or money belonging to any trustee investments endowment fund.

PART III
—cont.

(4) The aggregate amount of the capital values certified at the date when they are carried in of all the money and investments belonging to any endowment fund which are carried into the trustee investments 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 by the value at that time of an investment unit. The result of such division (any fraction amounting to less than one-half being ignored and any fraction amounting to one-half or more being reckoned as one) shall be the number of investment units to which such endowment fund is entitled in virtue of the investments and money so carried in.

14.—(1) Any amount of money for the time being in the trustee investments pool and available for investment shall be invested in the name of the University in any manner authorised by section 1 of the Trustee Investments Act, 1961, as if the trustee investments pool were a trust fund:

Administra-
tion of the
investment
pools.
c. 62.

Provided that—

(a) in its application to the powers of investment conferred by the said section 1, section 2 of the said Act of 1961 shall have effect as if—

(i) in subsection (1) of the said section 2 for the words “ the parts being, subject to the provisions of this Act, equal in value at the time of the division ” there were substituted the words “ the value of the narrower-range part at the time of the division bearing to the then value of the wider-range part the proportion of one to two ”;

(ii) in paragraph (b) of subsection (3) of the said section 2 for the words “ each part of the fund is increased by the same amount ” there were substituted the words “ the narrower-range part of the fund is increased by an amount which bears to the amount by which the wider-range part of the fund is increased the proportion of one to two ”;

(b) nothing in section 3 or section 4 of the said Act of 1961 shall apply to the exercise of the powers of this Act.

(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,

PART III
—cont.

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 investments 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 operative date the council, if they for any of the purposes of any endowment fund or in order to separate such fund in whole or in part from the pool require to realise any investment units forming the whole or any part of the shareholding of that fund in the trustee investments pool or the general pool, may effect such realisation by cancelling such investment units and withdrawing from the pool in which such investment units are held either—

- (a) an amount of money equal to the aggregate nominal value of the investment units 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; 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 (as at the time of such withdrawal) 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 any of the investments for the time being comprised in the trustee investments pool or the general pool if such sale is required for the purpose of realisation of any investment units in that pool or is thought by the council to be expedient.

(6) The council may at any time vary or transpose any investments in either pool for or into others of any nature authorised for such pool but subject, in the case of the variation or transposition of investments comprised in the trustee investments pool, to the provisions of the Trustee Investments Act, 1961, as modified by subsection (1) of this section.

(7) The income arising from the investments comprised from time to time in the trustee investments pool and the general pool respectively shall be dealt with in the manner specified in section 16 (Apportionment of income from pooled investments) of this Act.

PART III
—cont.

15.—(1) 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 auditor of the University.

Certification
of capital
values of
investments.

(2) For the purpose of any such certification the auditor 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.

16.—(1) The net amount of the aggregate income for any accounting period from the investments comprised in the trustee investments pool or the general pool after deduction of—

Apportion-
ment of income
from pooled
investments.

- (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 share in that pool in proportion to the numbers of investment units in that pool to which such funds are respectively entitled and, in the case of any investment unit or units to which an endowment fund was entitled during only a part of that accounting period, after paying due regard to the time during which that fund was so entitled.

(2) The council may retain in the trustee investments pool or the general pool and carry to a reserve fund in the accounts of that pool at the end of any accounting period any such amount of income from the investments comprised in that pool not exceeding four per centum upon the gross aggregate amount of such income for that accounting period 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 accounting period and so helping to equalise the rates of the annual distributions of income in

PART III
—cont.

respect of that pool. The whole or any part of the income thus held in reserve for the time being in the trustee investments 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 accounting period among the endowment funds entitled to share 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 investments 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 income from the investments comprised in the trustee investments 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.

(4) Any sums set aside pursuant to subsection (2) or (3) of this section may 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 investments pool or the general pool (as the case may be).

(5) If and when the council in pursuance of the provisions of section 14 (Administration of the investment pools) of this Act withdraw from the trustee investments 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.

(6) The council shall apportion between the trustee investments pool and the general pool any expenses of administration incurred jointly for both of those pools in respect of any accounting period.

Increase of
reduction or
value of
investment
unit.

17.—(1) The treasurer of the University shall as soon as practicable after the end of each accounting period and at any other time if so required by the council make to the council a report on the investments for the time being comprised in the trustee investments pool and in the general pool and if at any time the council after investigation and after receiving such report 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 (5) of section 16 (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 investments pool or the general pool is substantially greater or substantially less than the total value of all the investment units in that pool, the council shall make such an addition to or reduction of the nominal value of an investment unit in that pool as the council may deem appropriate in the circumstances, so as to equate such total value with such aggregate amount.

PART III
—cont.

(2) The initial value of an investment unit shall be five pounds.

18. Where any property is held upon trust for any foundation or object of or connected with the University or the members thereof by virtue of any scheme, deed, will or other instrument which came into operation, or any act or event which occurred, before the passing of this Act, such foundation or object may from time to time be varied or added to by deed under the seal of the University which shall have been approved by a resolution of the council, but so that the funds and investments or share in an investment pool for the time being allocated to each specific foundation or object shall remain allocated for such specific foundation or object:

Power to vary existing foundations or objects.

Provided also that any such deed or variation or addition shall not be of any validity until the same shall have been submitted to and approved by the Privy Council and a certificate of their approval thereof signed by the Clerk of the Privy Council shall be endorsed on such deed.

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

Effect of Part III on operation of instruments.

20. The provisions of sections 1 and 14 of the Prevention of Fraud (Investments) Act, 1958 (which except in certain cases respectively prohibit the carrying on of the business of dealing in securities without a licence and the distribution or possession for distribution of certain circulars), shall not apply to any dealings undertaken by or on behalf of the University in connection with the setting up or operation of the trustee investments pool or the general pool or to the distribution in that connection by or on behalf of the University of any document or to the possession of any document for the purpose of such distribution.

Exclusion of sections 1 and 14 of Prevention of Fraud (Investments) Act, 1958. c. 45.

PART IV

GENERAL

Copy of
Act to be
registered.

21.—(1) The University shall deliver to the Registrar of Companies a printed copy of this Act and he shall retain and register it.

(2) There shall be paid to the registrar by the University on such copy being registered the fee of five shillings.

Saving for
town and
country
planning.
c. 38.

22. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

Costs of Act.

23. The costs, charges and expenses 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 funds of the University.

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CHAPTER xix

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