



# University of Wales, Cardiff Act 2004

## 2004 CHAPTER vi

### PART 3

#### INVESTMENT POOL

#### 10 Interpretation of Part 3

In this Part of this Act—

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

“auditor” means the auditor of the Institution;

“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 in pursuance of the provisions of section 14 (Certification of capital values of investments) of this Act;

“endowment fund” means a fund which is applicable for the benefit of the Institution 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 Institution;

“investment pool” means the investment pool set up in pursuance of the provisions of section 12 (Pooling of investments) of this Act;

“investment unit” means a share in the investment pool of the value determined from time to time pursuant to section 16 (Increase or reduction of value of investment unit) of this Act;

“operative date”, means such date as the Council may by resolution passed in pursuance of section 11 (Adoption of Part 3) of this Act determine;

“shareholding” means, in regard to the investment 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.

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## **11 Adoption of Part 3**

If the Council so resolve, the provisions of this Part of this Act shall have effect on and after such date as may be determined in the resolution.

## **12 Pooling of investments**

- (1) The Council shall, on the operative date, set up and shall thereafter maintain an investment pool which shall be called “the investment pool” and shall be administered by the Council in the manner provided in this Act.
- (2) On, or at any time after, the operative date, the Council may carry into the investment pool any such investments and money as belong for the time being to any endowment fund or any trustee investment endowment fund.
- (3) The aggregate amount of the certified capital values, certified at the date when they are carried in, of all the investments and money belonging to any endowment fund which are carried into the investment pool 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.
- (4) 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 that endowment fund is entitled by virtue of the investments and money so carried in.

## **13 Administration of investment pool**

- (1) The investment pool shall be invested in the name of the Institution.
- (2) In relation to the investment pool the Council shall have all the powers conferred upon trustees by the Trustee Act 2000 (c. 29).
- (3) Any money for the time being comprised in the investment pool and awaiting investment may be paid by the Council into a bank to a deposit or other account in the name of the Institution 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) Subsection (5) below applies if, at any time after the operative date, the Council—
  - (a) for any of the purposes of any endowment fund; or
  - (b) in order to separate any such fund in whole or in part from the pool,decide to realise any investment units forming the whole or any part of the stakeholding of that fund in the pool.
- (5) The Council may effect that realisation by cancelling those investment units and withdrawing from the pool 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 is equal to such aggregate nominal value; or
  - (c) an amount equal to that aggregate nominal value and composed partly of money and partly of investments the certified capital value of which when added to the amount of that money gives a total amount equal to that aggregate nominal value.

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- (6) The Council may at any time sell any of the investments for the time being comprised in the investment pool if such a sale is required for the purpose of realising any investment units in that pool or is thought by the Council to be expedient.
- (7) The Council may at any time vary or transpose any investments in the pool for or into other investments of any nature authorised for that pool.
- (8) The income arising from the investments comprised from time to time in the investment pool shall be dealt with in the manner specified in section 15 (Apportionment of income from pooled investments) of this Act.

#### **14 Certification of capital values of investments**

- (1) Whenever the capital value of any investment requires for any purpose of this Act to be certified, the amount of that capital value shall be certified in writing by the auditor.
- (2) For the purpose of that 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.

#### **15 Apportionment of income from pooled investments**

- (1) The net amount of the aggregate income for any accounting period from the investments comprised in the investment pool after deduction of—
  - (a) any expenses of administration of the pool;
  - (b) any amount which may be retained in the pool in pursuance of the provisions of subsection (2) below; and
  - (c) any amount set aside in pursuance of the provisions of subsection (3) below;shall be apportioned among the endowment funds entitled to share in the pool in proportion to the numbers of investment units in the pool to which each fund is 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 pool and carry to a reserve fund in the accounts of the pool at the end of any accounting period any such amount of income from the investments comprised in the pool, not exceeding such percentage as the Council may by resolution from time to time determine of the gross aggregate amount of that income for that accounting period, as the Council may consider it expedient to reserve with a view to—
  - (a) supplementing the income from the investments comprised in the pool to be apportioned in any subsequent accounting period, and
  - (b) so helping to equalise the rates of the annual distributions of income in respect of the pool.
- (3) The whole or any part of the income thus held in reserve for the time being in the 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 the pool and as if it were part of that income.

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- (4) The Council may retain in the pool and carry to a capital redemption account in the accounts of the pool at the end of any accounting period any such amount of income from the investments comprised in the pool not exceeding such percentage as the Council may by resolution from time to time determine of the gross aggregate amount of that income for that accounting period as the Council may consider it expedient to set aside to meet capital losses.
- (5) Any sums set aside pursuant to subsection (2) or (4) above shall be invested by the Council in the same manner as that in which money for the time being in the pool and available for investment is required to be invested in pursuance of the provisions of section 13 (Administration of investment pool) of this Act and the capital and income of such investments shall respectively form part of the capital and income of the pool.
- (6) If an investment is redeemed or terminated or, in pursuance of the provisions of section 13 (Administration of investment pool) of this Act, withdrawn from the pool or sold—
  - (a) the Council may deduct a sum, being not greater than the capital loss, if any, resulting from the redemption, termination, withdrawal or sale, from the capital redemption account of the pool; and
  - (b) may apply it at their discretion in meeting the capital loss.

## **16 Increase or reduction of value of investment unit**

- (1) The auditor 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 investment pool.
- (2) If at any time the Council, after investigation and after receiving any such report, come to the conclusion that—
  - (a) by reason of appreciation or depreciation of the values of investments; or
  - (b) by reason of the deduction of any sum standing to the credit of a capital redemption account in pursuance of the provisions of subsection (5) of section 15 (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 investment 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 that total value with that aggregate amount.
- (3) The initial value of an investment unit shall be five pounds.

## **17 Supplementary provisions**

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

## **18 Repeal**

Part III of the [University of Wales College of Cardiff Act 1988 \(c. xxiii\)](#) (which is superseded by this Part of this Act) shall be repealed.