

TECHNICAL REVIEW OF THE STATUTES, AND ORDINANCES: CONSULTATION PAPER 7: TRUSTS (STATUTE E)

30 June 2011

TRUSTS

This paper is issued as part of the process of technical review of the Statutes, and Ordinances, authorised by Grace 10 of 21 July 2010, following the Report of the University Council dated 14 June 2010 (*Reporter*, 2009–10, p. 992). The paper has been considered and approved by the Technical Advisory Group chaired by Professor David Yates.

Summary

This paper makes suggestions about Statute E and related matters. An exposure draft of suggested amendments to Statutes is set out later in the paper.

Comments

Comments are welcome and should be sent to the Administrative Secretary at the University Offices, The Old Schools, Cambridge (email: Alan.Clark@admin.cam.ac.uk) if possible by 14 November 2011. All comments will be considered and a draft Report of the Council to the University will then be prepared for Discussion and eventual submission for approval in principle, through the ordinary University processes.

Explanation of the changes suggested

The present Statute makes general provisions about Trusts (Chapter I) and detailed provisions about individual Trusts (Chapters II – XLVII) for which the University has exercised its powers under Act of Parliament to amend Trusts by making or amending Statutes.

Some obsolete material has been deleted from Statute E, I, 3.

Otherwise Statute E requires relatively little revision, although consideration may be given later in the process as to whether some of the 46 individual chapters could be re-presented in tabular form (without changing their substance) or in separate schedules. A higher priority, in the limited time available, may, however, be to simplify the corresponding Ordinances, which will be intercalated with the 46 chapters.

Views would be welcome on the question whether it would be helpful to transfer all the detailed provisions for individual funds to a schedule, or the Ordinances (provided general provision can be made to preserve the amendments to trusts made by the present Statutes).

Minor stylistic changes are proposed to Chapter I of the Statute to conform to the style adopted elsewhere in the new Statutes.

Suggested explanatory note to appear with the revised Statute if approved

(These notes do not form part of the Statute.)

Chapter I makes general provisions about Trust emoluments. Sections 2–5 make provisions applying to Trusts in existence at the time the Statute was originally made (14 January 1927). Section 7 applies to all trust funds whether in existence then or later (unless there is special provision otherwise). It makes provision that awards are not to be made if there is no candidate of sufficient merit, that the University can direct whether awards are to take the financial circumstances of candidates into account (or not), to suspend an award if there are not sufficient funds, to accumulate unexpended income by investment or otherwise (and may be added to the capital).

Section 8 states the University's power by Ordinance to apply income in ways "consonant with the original purpose of the endowment" (with the consent of the founder if alive, or if the trust is less than sixty years old with the consent of any trustees or governing body other than the University, if any).

Chapters II – XLVII make individual provision for trusts. [The corresponding Ordinances about these trusts are intercalated.]

Suggested draft revised Statute**STATUTE E****TRUST EMOLUMENTS****Chapter I****General provisions**

1. The University must maintain those lectureships, scholarships, prizes, and other emoluments for which provision is made by any trust for the time being binding on the University, in addition to those mentioned in this Statute.
2. When in any regulations governing a trust, which is more than sixty years old at the date of the original making of this Statute [14 July 1927], it is directed that any act must or can be done by the Senate, the direction is hereby altered so that the act must or can be done by the Regent House.
3. When in any regulations governing a trust, which is less than sixty years old at the date of the original making of this Statute [14 January 1927], it is directed that any act must or can be done by the Senate, the direction is hereby altered so that the act must or can be done by the Regent House: provided that if the trust has a trustee or governing body other than the University such alteration can take effect only if the consent of such trustee or governing body is obtained.
4. When in any regulations governing a trust it is directed that any act must or can be done by the General Board of Studies or a Special Board of Studies or a Board of Studies, the direction is hereby altered so that the said act must or can be done by the General Board of the Faculties or the Faculty Board, other Board, or Syndicate.
5. The regulations concerning any endowment mentioned by name in Chapters II to XXXII (inclusive) of this Statute, which are contained in any instrument of foundation, Act of Parliament, Order in Council, decree, order, statute or other instrument operative before the original commencement of this Statute, are rescinded, save in so far as any of the said regulations may be embodied in this Statute.
6. The name of the founder (or of the person commemorated by the fund) must be attached to any emolument charged upon any of the said endowments and must appear in any announcement of the award.
7. These provisions govern existing and future trust funds, except as may be provided otherwise in any instrument of foundation or Statute for the time being governing a particular trust fund.
 - (i) The awarders of a scholarship, prize, or other emolument charged upon a trust must not award the whole or any part of the income at their disposal on any occasion when there is no candidate of sufficient merit.
 - (ii) The University can from time to time direct whether the awarders of a scholarship, prize, or other emolument charged upon a trust fund must take into consideration the financial circumstances of candidates; in the absence of any directions such circumstances must not be taken into consideration.
 - (iii) When the income of a trust fund is insufficient for the effective maintenance of a lectureship, scholarship, prize, or other emolument charged upon the fund, the University can suspend the emolument.
 - (iv) Any part of the income of a trust fund not expended in any year must be accumulated by investment or otherwise, and any accumulation must at the discretion of the Council either be applied as income in any one or more subsequent years or be added to the capital of the fund.
 - (v) When two or more candidates for a scholarship, prize, or other emolument are of equal merit, the awarders can divide between them the income at their disposal.
 - (vi) When it is provided that the income of a trust fund must be used for the award of scholarships, prizes, or other emoluments, the expenses connected with the making of the award, including the remuneration of the awarders, can be charged to the income of the fund.
 - (vii) Candidature for scholarships, prizes, and other emoluments is invited on such occasions (not necessarily annual) as the University determines.
 - (viii) The University can make Ordinances about the nature, amounts, conditions of tenure, duration, and payment of any emoluments charged upon a fund, the eligibility of candidates, the persons by whom, the subjects for which, and the manner in which awards must be made, and any other matters relating to the administration of the fund.

(ix) When a prize is to be awarded for an essay, dissertation, poem, or the like, the University can make payment of the prize money conditional on the prize-winner's work being printed (or printed and published) in an approved manner.

8. Notwithstanding the provisions of any instrument of foundation governing a particular trust, the University can make Ordinances to apply part of the income of the fund for the purpose of increasing the value of an emolument or the remuneration of the awardees, or maintaining additional emoluments of the same character, or for another purpose or other purposes: provided that such application is consonant with the original purpose of the endowment and that no such application can be made during the life of the founder of the trust without his or her consent, and that if the trust is less than sixty years old, and has a trustee or governing body other than the University, no such application can be made without the consent of such trustee or governing body.

Chapters II – XLVII

As these chapters are not, at any rate at present, proposed for amendment they are not re-printed in this consultation paper.