

CHAPTER 38

University of Victoria Foundation Act, 1979

[Assented to July 31, 1979.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpretation

1. In this Act

"donation"

means a gift whether made in the lifetime or on or after the death of a donor and includes a devise, bequest, grant or settlement, whether in trust or otherwise;

"donor"

includes a testator, grantor and settlor;

"extraordinary resolution"

means a resolution passed by a majority of not less than 3/4 of the votes duly cast by the members at a meeting of the foundation board;

"foundation board"

means the board of directors of the university foundation;

"members"

means the members of the foundation board;

"resolution"

means a resolution passed by a simple majority of votes duly cast by the members at a meeting of the foundation board;

"trust company"

means a company incorporated, registered or deemed to be registered under the Trust Companies Act;

"university"

means the University of Victoria;

"university board"

means the board of governors of the university;

"university foundation"

means the University of Victoria Foundation.

Creation ofuniversity foundation

2. The university foundation created by the University of Victoria Foundation Act, S.B.C. 1954, c. 67, is continued as a body corporate under the name "University of Victoria Foundation".

Members of
university foundation

3. (1) The university foundation shall be composed of the members of the foundation board.

(2) The university foundation shall be managed by the foundation board.

(3) The foundation board shall have not less than 8 and not more than 12 members, consisting of

- (a) the president and the bursar of the university,
- (b) 2 members appointed by the Minister of Education, Science and Technology,
- (c) 2 members appointed by the university board, and
- (d) 2 to 6 members elected by the other members of the foundation board holding office.

(4) The university foundation shall by bylaw

- (a) fix the number of members, and
 - (b) fix the term of office of each member
- of the foundation board.

(5) On the expiry of a term of a member, he may be reappointed or re-elected as the case may be, but no member, other than the president and bursar, shall hold office for more than 9 consecutive years.

(6) Members shall serve without remuneration other than the payment of expenses incurred in the carrying out of their duties under this Act.

(7) The members of the advisory board of the university foundation on the day this Act comes into force shall be the members of the university foundation until the appointment or election, as the case may be, of new members.

General purposes

4. The university foundation shall encourage financial support of the university through donations from individuals, corporations and foundations for scholarships, bursaries and other university purposes and shall promote a continuing interest in the university and in higher education generally.

Duties and powers

5. (1) Subject to section 6, the university foundation shall, for the benefit of the university, its faculty and students,

- (a) accept and execute trusts, and
- (b) receive donations and administer donated property, wherever situated,

for educational purposes.

(2) Subject to section 6, the university foundation may

- (a) subject to the provisions of a donation, convert, exchange and dispose of property received or held under the donation,
- (b) lease land held by it,
- (c) pay out of its funds all expenses incidental to its management and the management of donated property,
- (d) refuse to accept property donated to it if, in the opinion of the foundation board, it is not in the interest of the university foundation to accept or receive the property,

- (e) subject to paragraph (f), renounce or abandon property donated to it if in the opinion of the foundation board it is not in the interest of the university foundation to retain the property,
- (f) only renounce or abandon property received in trust with leave of a judge of the Supreme Court, which may be granted on application to the court, and
- (g) do anything that is necessary to carry out the purposes of the university foundation.

Control of donations

6. (1) Subject to the provisions of a trust, all donations to or for the benefit of the university that are

- (a) made at any time to the university, the university foundation, Victoria University, Victoria College, University Development Board of Victoria College or any other person or body the name of which indicates the university, its students or its faculties,
 - (b) made to no other trustee, and
 - (c) accepted by the university,
- shall vest in the university or the university foundation as the university board directs.

(2) Subject to the provisions of a trust, all donations to or for the benefit of the university foundation that are

- (a) made at any time to the university, the university foundation, Victoria University, Victoria College, University Development Board of Victoria College or any other person or body the name of which indicates the university, its students or its faculties,
 - (b) made to no other trustee, and
 - (c) accepted by the university foundation,
- shall vest in the university or the university foundation as the foundation board directs.

(3) A donation referred to in subsection (2) that is not accepted by the university foundation shall vest in the university unless

- (a) the donor otherwise provides, or
- (b) the university board refuses to accept the donation or otherwise directs.

Appointment of trust companies

7. (1) The university foundation, as soon as practicable after a donation is received, may by resolution appoint a trust company

- (a) to have custody of all or a part of the property comprising the donation, and
 - (b) to carry out such duties as the foundation board may direct.
- (2) The ownership of trust property shall be in the university foundation, unless the foundation board otherwise determines.

(3) The university foundation may at any time by resolution revoke the appointment of a trust company under this section and may appoint another trust company in its place.

(4) A trust company whose appointment has been revoked under subsection (3) shall forthwith surrender the property under its custody to the trust company appointed in its place, or to the university foundation if no trust company has been appointed in its place.

Execution of transfers

8. Every transfer of property by the university foundation shall
- (a) be executed by and on behalf of the university foundation in such manner as the university foundation may designate by resolution or by bylaw, and
 - (b) if required by the university foundation, be executed by the trust company, if any, that has custody of the property.

Trust company's duties

9. Every trust company during the term of its appointment shall
- (a) deal with all property, in respect of which it has been granted custody by the university foundation under section 7, in an efficient manner and make all investments, conversions and dispositions that
 - (i) appear necessary or desirable, and
 - (ii) are approved by the foundation board,
 - (b) subject to sections 11 and 13, observe and implement all directions given in writing by the foundation board respecting the provisions of the instrument creating a donation,
 - (c) observe and implement all directions given in writing by the foundation board with regard to property in respect of which it has been granted custody by the university foundation under section 7,
 - (d) distribute money in its possession in the manner and amounts directed by resolution of the foundation board,
 - (e) pay all accounts and expenses of the university foundation as the foundation board may direct,
 - (f) retain for its remuneration the sum that the foundation board may by resolution fix, and
 - (g) pay or retain all expenses incurred by it that are approved by the foundation board.

Investment counsel

10. (1) The foundation board may employ and terminate the services of investment counsel and fix their remuneration.

(2) New investments or reinvestments shall be made only under the direction of the foundation board or under the direction of investment counsel, subject to the approval of the foundation board.

(3) Unless permitted by the provisions of a donation or by a donor, the foundation board may invest only in property or securities in which a university board may invest under section 55 of the Universities Act.

Determination by foundation board of distribution according to donor's wishes

11. (1) Subject to this section, the foundation board may determine by resolution the manner in which the money available in each year shall be used and distributed for the benefit of the university, its faculty and its students, and shall, in so determining, be governed by the provisions of the donation.

(2) If, in the opinion of the foundation board the provisions of a donation are not in the best interest of the university, or are not practicable to implement, the foundation board may refuse to accept the donation giving rise to them.

(3) If in the opinion of the foundation board a departure from or variation of the provisions of a donation would further the true intent and object of this Act, the foundation board may apply to a judge of the Supreme Court for an order authorizing the foundation board to depart from or vary the provisions of the donations.

(4) Section 88 of the Trustee Act applies to the application referred to in subsection (3).

Secretary and treasurer

12. The foundation board shall appoint a secretary and a treasurer and may by resolution determine the salary, if any, to be paid to the secretary and the treasurer.

Withdrawals and disbursements

13. The foundation board may by extraordinary resolution direct that any part of the capital property vested in the university foundation be withdrawn and disbursed in accordance with the provisions of the donation under which the property is received, unless the instrument governing the donation expressly prohibits this.

Audit

14. (1) The university foundation shall cause an independent audit of its annual financial statements to be made at least once in every fiscal year.

(2) The financial statements shall show the assets of the university foundation, including details of all investments held, the liabilities, receipts and disbursements in respect of each donation, the amount of income received during the preceding fiscal year, and the manner in which the income has been used, including details of expenses incurred.

(3) Copies of the annual financial statements, with the auditor's report attached, shall be forwarded each year to the Minister of Education, Science and Technology and to the university board.

(4) It shall be the duty of each trust company appointed under section 7 to give full information and permit the necessary inspection to enable this audit to be made.

(5) The university foundation is deemed to be a public body for the purposes of section 16 of the Auditor General Act.

Bylaws

15. The university foundation may pass bylaws regulating the carrying out of the duties that are assigned to it or to the foundation board by this Act, and without restricting the generality of the foregoing, may pass bylaws

- (a) fixing the fiscal year of the university foundation,
- (b) setting the times of distribution and audit,
- (c) establishing the terms of office of the members,
- (d) respecting the appointment of a chairman and such other officers as the foundation board deems necessary,
- (e) respecting meetings of the foundation board,
- (f) regulating the foundation board's business, and
- (g) respecting such other matters as are necessary and convenient for the carrying out of the objects of this Act.

S.B.C. 1975, c. 53

16. Section 22 of the Perpetuities Act is amended by adding the following:

- (c) the trusts of any property donated to a university or its foundation.

Repeal

17. The University of Victoria Foundation Act, S.B.C. 1954, c. 67, is repealed.