

UTR 6.273 – FRANK KEENAN SCHOLARSHIPS

Background

- A. By his Will dated 8 April 2000 ('Will') the late Francis Keenan, MBE, HonBAppSci(Hort) (Melb.), horticulturalist and parks administrator ('donor') bequeathed one-fifth of his net residuary estate ('bequest') as follows- '... to my Trustees to establish in perpetuity a scholarship or merit award at Burnley College, University of Melbourne, Yarra Boulevard, Richmond by such means and in such manner as my Trustees in their absolute discretion determine and to apply the income in each year towards such scholarship or award which shall be awarded annually or for the duration of the course of any graduate or under-graduate studying at Burnley College, based on academic merit and relating specifically to the advancement of services and practices of amenity and/or ornamental horticulture and provided that the Principal of Burnley College for the time being shall be consulted each year in relation to the awarding of the scholarship or award and it being my wish that for the first five years of such scholarship or award one of my Trustees also be consulted in relation to the awarding of the scholarship or award...'.
 - B. The donor studied at the Burnley Horticultural College in 1929 and 1930, and was employed by the Melbourne City Council from 1931, retiring in 1978 as director of the parks, gardens and recreation department of that council. In 1978 the donor was made a member of the Order of the British Empire for his services to the community. The donor died on 17 April 2007.
 - C. The University does not operate and has never operated a college called 'Burnley College'.
 - D. Burnley Horticultural College (often called Burnley College), was established in 1891.
 - E. By section 7(1)(a) of the Victorian College of Agriculture and Horticulture Act 1982 (Vic), the control and administration of Burnley Horticultural College was transferred to and vested in the council of the Victorian College of Agriculture and Horticulture established by that Act.
 - F. By section 4 of the Melbourne University (VCAH) Act 1992 (Vic), Victorian College of Agriculture and Horticulture Limited became the successor in law of the Victorian College of Agriculture and Horticulture and its council.
 - G. By section 4 of the Melbourne University (VCAH) Act 1997 (Vic), the University became the successor in law of Victorian College of Agriculture and Horticulture Limited.
 - H. At all times the University has proceeded on the basis that the reference in the Will to 'Burnley College' was a reference to the Burnley campus of the University.

- I. The University received monies and assets amounting to \$172,032.53 in satisfaction of the bequest ('distribution').
- J. The University accepted the distribution upon the trusts
- K. specified by the Will, and the distribution therefore became the capital subject to those trusts ('capital sum').
- L. This University trust record records- (1) the trusts specified by the donor upon which the University as trustee holds the capital sum; and (2) the administrative arrangements for the implementation of those trusts, as determined by the University from time to time. It is provided as follows

Name of the fund

1. The capital sum, all income arising from the capital sum, and any accumulations and additions thereto together form a fund called 'The Frank Keenan Scholarships Fund' ('fund').

Investment of the fund

2. The fund is to be paid into one or more investment pools and remain there until Council directs otherwise.

Trust terms

3. As trustee of the fund, the University is obliged by the trusts specified by the donor ('trust terms')-
 - (1) to establish a perpetual trust;
 - (2) to preserve the capital of the fund, meaning that the capital of the fund is not to be spent;
 - (3) to apply the net annual income of the fund towards a scholarship or merit award ('scholarship');
 - (4) to retain any unspent income as income for the award of a scholarship in a subsequent year;
 - (5) to award one or more scholarships annually or otherwise to award a scholarship for the duration of a student's course; and (6) to award each scholarship-
 - (a) to an undergraduate or graduate student at the Burnley campus of the University ('Burnley');
 - (b) on the basis of academic merit;
 - (c) relating specifically to the advancement of services and practices of amenity and/or ornamental horticulture; and
 - (d) after consulting the head of Burnley ('head').

Administrative arrangements

4. Until its further determination, and in order to implement the trust terms, the University has determined-
 - (1) to call the fund 'The Frank Keenan Scholarships Fund';
 - (2) to call each scholarship 'The Frank Keenan Scholarship';
 - (3) that each scholarship is to be awarded upon the recommendation of a selection committee ('committee');
 - (4) that the committee is to determine-
 - (a) the value of each scholarship;
 - (b) the number of scholarships awarded each year; and
 - (c) the term of each scholarship;
 - (5) that, in accordance with the wishes of the donor, in the period ending 31 December 2014 before recommending the award of any scholarship the committee is to consult with one or more of the executors of the Will; and
 - (6) that the name, composition and terms of reference of the committee are to be determined from time to time by the Dean of the Faculty of Science ('Dean'), provided that-
 - (a) if the head is a member of the committee and participates in the selection of scholarship recipients, that will constitute consultation with the head for the purposes of section 3(6); and
 - (b) if one or more of the executors of the Will is a member of the committee and participates in the selection of scholarship recipients, that will constitute consultation with the executor(s) for the purposes of section 4(5).
5. Council hereby authorises the Dean to award each scholarship on behalf of the University.

[Made 22/3/10; revoked as a Regulation and certified as a University trust record 26/5/10; s 4(6) am. 25/01/2016]