



## NEW ZEALAND

### ANALYSIS

Title.  
Preamble.  
1. Short Title.

2. Variation of trusts.  
3. Variation to take effect.  
4. Private Act.

### 1947, No. 1—*Private*

AN ACT to vary certain Charitable and Educational Trusts established by John Robert McKenzie, of Christchurch, Merchant. [26th September, 1947]

WHEREAS by deed bearing date the twelfth day of February, nineteen hundred and forty, made between John Robert McKenzie, of Christchurch, merchant (hereinafter referred to as the donor), of the one part, and Alfred William Duncan, company manager, and Sir Alexander Fowler Roberts, Knight of the British Empire, both of Wellington, of the other part, it was provided that the Board of Trustees thereby constituted should on receipt of the annual income of the trust funds comprised in the said deed, after paying and discharging all costs, charges, and expenses properly incurred from time to time in relation to the administration of the trusts created by the said deed, divide the said annual income which should arise into five equal parts and use and apply such equal parts within the Dominion of New Zealand for the purposes thereafter set forth and/or any of them: And whereas the purpose of application of four of the said five equal parts was set out as being:—

(a) For the benefit of soldiers, sailors, airmen, and/or members of the mercantile marine who, being permanently domiciled within the

Dominion of New Zealand, should have served or should serve in any war in which New Zealand had been or at any time should be engaged, and who should have suffered or should suffer temporary or permanent disability, or whose opportunities for advancement in life or earning a livelihood had been or should be prejudiced as a result of war service:

- (b) For the benefit of the Royal New Zealand Society for the Health of Women and Children (Incorporated) for the general purposes of the organization known as the "Plunket Society":
- (c) For the benefit of delicate, ill, ailing, or backward children, who might be in need of special medical, surgical, or curative treatment or special educational instruction or vocational training and who for the time being should be under the age of sixteen years, with power, nevertheless, in necessitous cases, to extend such limitation as to age to seventeen years if thought fit:

Provided, however, that the class of child eligible for benefit thereunder should not be deemed to include that class defined in the constitution of the New Zealand Crippled Children Society, for which class provision appeared already to have been made:

And whereas by the said deed the said Board of Trustees was invested with the discretion as to apportionment and the power of exclusion therein set out: And whereas the purpose of application of the remaining one of the said five equal parts was set out as being:—

For any charitable or educational purpose or purposes in the Dominion of New Zealand selected by the said Board of Trustees, with power to vary the purpose or purposes from time to time and, if thought fit, to apply all or any part thereof for the specified objects (a), (b), and (c) thereinbefore stated, or any of them:

And whereas provision was made in the said deed for the setting-up and constitution of the said Board of Trustees and for the management, administration, and performance of the trusts created by the said deed, including power for the Board to make rules and regulations for the purpose of governing its own acts and proceedings in such manner as might be deemed expedient: And whereas the said Board of Trustees was duly constituted, and reappointments and new appointments have been made in conformity with the provisions of the said deed: And whereas the said Board has met at regular intervals, and up to the present time a sum of thirty-five thousand six hundred pounds has been received and disbursed by the said Board in performance of the trusts established by the said deed: And whereas experience has shown that the said Board is unduly restricted by the division of the net annual income into five equal parts and the directions to use and apply such five equal parts in the proportions set forth in the said deed, and the said Board is of the opinion that, by reason of such restrictions, many deserving objects are being excluded from participation in the donor's bounty: And whereas it is the desire of the donor and the said Board that the said trusts shall be varied in manner hereinafter appearing:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the J. R. McKenzie **Short Title.**  
Trust Act, 1947.

2. The Board of Trustees shall henceforth, so long **Variation of trusts.**  
as the trusts of the said deed shall be subsisting and capable of taking effect, be empowered to divide the net annual income of the trust funds into four equal parts instead of five equal parts as provided by the said deed, and use and apply such equal parts within the Dominion of New Zealand for the following purposes, that is to say:—

(a) As to one of such four equal parts—

(i) For the benefit of persons who are or at any time have or shall have been members of the Armed Forces of His Majesty

(whether raised in New Zealand or in any other part of the British Commonwealth) or members of the mercantile marine of any British country, and who, being domiciled within the Dominion of New Zealand or any dependency of New Zealand, shall have served or shall serve in any war in which New Zealand has been or shall at any time be engaged, and who shall have suffered or shall suffer temporary or permanent disability through wounds or sickness, or whose opportunities for advancement in life or earning a livelihood have been or shall be prejudiced as a result of war service:

(ii) For the benefit of the Royal New Zealand Society for the Health of Women and Children (Incorporated) for the general purposes thereof:

(iii) For the benefit of delicate, ill, ailing, or backward children or children who may be in need of special medical, surgical, or curative treatment or special educational instruction or vocational training and who for the time being shall be under the age of sixteen years, with power, nevertheless, in necessitous cases to extend such limitation as to age to seventeen years if thought fit:

Provided, however, that the class of child eligible for benefit hereunder shall not be deemed to include that class defined in the constitution of the New Zealand Crippled Children Society as now in force, for which class provision appears already to have been made:

Provided that the said Board of Trustees shall be invested with an absolute discretion as to the apportionment from time to time of the said one of such four equal parts of the said annual net income of the trust funds amongst or for the benefit of the objects hereinbefore set forth and may from time to time set apart the whole or any part thereof for the benefit of any specified object or objects to the

exclusion of the others or other of them if it shall be of opinion that such specified object or objects is or are for the time being in greater need of assistance than such others or other of them:

(b) As to the remaining three of such four equal parts—

For any charitable or educational purpose or purposes in the Dominion of New Zealand selected by such Board of Trustees, including the specific purposes set out in subparagraphs (i), (ii), and (iii) of paragraph (a) of this section, with power to vary the purpose or purposes from time to time.

3. The said deed of trust shall henceforth be read and construed and be deemed to take effect accordingly. Variation to take effect.

4. This Act is hereby declared to be a private Act. Private Act.

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