

**Reprint  
as at 24 September 1953**



**Auckland Hospital Board Trusts  
Empowering Act 1953**

Private Act    1953 No 1  
Date of assent    23 September 1953  
Commencement    23 September 1953

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**An Act to vary certain charitable trusts established by David  
Rough, Ellen Edgar, Thomas Francis Clemow, and Eliza Potter**

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**Preamble**

Whereas by deed bearing date 27 January 1899 David Rough, of Bournemouth, England, did transfer and make over for ever to the Hospital and Charitable Aid Board of the District of Auckland the sum of 500 pounds upon trust to be administered by the said Board in accordance with the provisions of the Hospital and Charitable Institutions Act 1885 and the amendments thereof as a permanent fund or endowment for the relief of indigent persons suffering from incurable diseases in the City and District of Auckland, with power at discretion to pay the said sum towards a permanent enlargement of any institution established for the relief of such persons but not for the relief of the ordinary poor or paupers, and with power to the said Board to expend the said sum in the erection of a special ward in the Auckland Hospital or of a separate building connected therewith to be especially devoted to the relief of such indigent and incurably diseased persons as aforesaid:

And whereas the sum of 600 pounds paid by way of Government subsidy was added to the said sum of 500 pounds, making a total sum of 1,100 pounds:

And whereas the moneys subject to the said trust through accumulations of income amounted on 31 March 1952 to the sum of 7,312 pounds and 6 pence and is held by the Auckland Hospital Board (formerly called the Auckland Hospital and Charitable Aid Board):

And whereas Ellen Edgar, late of Mount Eden, near Auckland, in New Zealand, widow, deceased, by her last will and testament dated 21 September 1939, probate whereof and 1 codicil thereto was granted by the Supreme Court of New Zealand at Auckland to the executor and trustee therein named on 24 September 1947, gave a one-fourth share in the residue of her real and personal estate to the Auckland Infirmary situate at One Tree Hill:

And whereas the said one-fourth share amounting to the sum of 1,037 pounds and 6 pence was paid to the Auckland Hospital Board, being the authority in control of the said Auckland Infirmary:

And whereas the amount held by the said Board to the credit of the Ellen Edgar Trust Fund on 31 March 1952 was 1,088 pounds 14 shillings and 8 pence:

And whereas Thomas Francis Clemow, late of Auckland, in New Zealand, retired farmer, deceased, by his last will and testament dated 14 June 1940, probate whereof and 1 codicil thereto was granted by the Supreme Court of New Zealand at Auckland to the executor and trustee therein named on 21 October 1947, gave a one-third share in the residue of his real and personal estate to the Auckland Infirmary (commonly called the Old Men's Home) and directed that the receipt of the Auckland Hospital Board for the same should be a sufficient discharge to the said executor and trustee:

And whereas the said one-third share of residue amounting to the sum of 2,408 pounds 6 shillings and 9 pence was paid to the said Board:

And whereas the amount held by the said Board to the credit of the Thomas Francis Clemow Trust Fund on 31 March 1952 was 2,544 pounds 5 shillings and 7 pence:

And whereas Eliza Potter, the wife of William Potter, of the City of Auckland, coachbuilder, deceased, by her last will and testament dated 26 March 1906, probate whereof and 1 codicil thereto was granted by the Supreme Court of New Zealand at Auckland to Frederick Seymour Potter, the executor and trustee therein named, on 1 February 1918, directed that upon the determination of certain prior trusts mentioned in the said will the residue of her estate should be held upon trust for the Auckland Hospital and Charitable Aid Board or other body corporate or trustees having the control or management of the Auckland Hospital to be applied by the said Board, body corporate, or trustees for the benefit of indigent sick persons who may from time to time become inmates of that hospital:

And whereas the said Frederick Seymour Potter died at Auckland on or about 29 March 1941 and probate of his last will and testament bearing date 9 October 1939 was granted to William Wallace, land valuer, and Mary Elizabeth Potter, widow, both of Auckland, out of the Supreme Court of New Zealand at Auckland on 28 April 1941:

And whereas by deed of appointment dated 20 August 1941 the said William Wallace and Mary Elizabeth Potter duly appointed Allan John Moody, solicitor, and Ernest Henry Wright, public accountant, both of Auckland, to be trustees of the will of the said Eliza Potter in the place and stead of the said Frederick Seymour Potter:

And whereas the said prior trusts created by the said will of the said Eliza Potter determined on 9 October 1948:

And whereas the said Allan John Moody and Ernest Henry Wright are holding funds and securities (hereinafter together with interest accruing thereon referred to as the **Eliza Potter Trust Estate**) amounting on 31 July 1952 to the sum of 37,263 pounds 14 shillings, and are desirous of paying and transferring the same to the Auckland Hospital Board (formerly called the Auckland Hospital and Charitable Aid Board) and of being discharged from the trusts of the said will of the said Eliza Potter:

And whereas the application and administration of the foregoing trusts have become difficult or impracticable or inexpedient either by reason of changes in the nature of the institutions hereinbefore mentioned or by reason of hospital and other benefits provided by the Social Security Act 1938 and its amendments:

And whereas for the purpose of giving effect to the charitable intentions of the donors of the funds affected by the said several trusts it is expedient that the said trusts be varied in the manner hereinafter appearing:

And whereas it is uncertain whether such variation of the said trusts can be attained otherwise than by legislation.

## **1 Short Title**

This Act may be cited as the Auckland Hospital Board Trusts Empowering Act 1953.

## **2 Eliza Potter Trust Estate to be transferred to Auckland Hospital Board**

- (1) The said Allan John Moody and Ernest Henry Wright are hereby authorized and directed to pay and transfer so soon as is practicable after the passing of this Act to the Auckland

Hospital Board the Eliza Potter Trust Estate, subject, however, to deduction therefrom of all costs, charges, disbursements, and expenses of and incidental to the preparing, obtaining, and passing of this Act (including the costs as between solicitor and client of the said Allan John Moody and Ernest Henry Wright).

- (2) The receipt of the Auckland Hospital Board for all such moneys, securities, and other assets aforesaid shall be a full and sufficient discharge to the said Allan John Moody and Ernest Henry Wright for the same, and the said Allan John Moody and Ernest Henry Wright and their respective executors and administrators shall thereafter be released and forever discharged from the trusts of the will of the said Eliza Potter, deceased.

### **3 Application of trust funds by Board**

Notwithstanding anything to the contrary in the said deed of trust executed by the said David Rough or in the said wills of the said Ellen Edgar and Thomas Francis Clemow and Eliza Potter, the Auckland Hospital Board shall be empowered as from the date of the passing of this Act to apply the capital and income of the funds affected by the said several trusts for the relief of distress of aged persons within the district from time to time under the control of the said Board and so that the said Board shall have power in its absolute discretion and without being liable thereafter to see to the application thereof to pay or transfer the whole or any part of the capital of the said funds to any charitable institution or charitable organization within the district under the control of the said Board and having as its object the relief of distress from time to time of aged persons within that district.

### **4 Saving**

The powers and authorities vested in the Auckland Hospital Board by this Act in relation to the said several trusts shall be in addition to and not in substitution for the powers and authorities vested in the said Board by virtue of the said deed of trust and the said wills and by virtue of the Hospitals Act 1926 or any Act passed in amendment or substitution thereof.

**5 Private Act**

This Act is hereby declared to be a private Act.

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## **Notes**

### **1 *General***

This is a reprint of the Auckland Hospital Board Trusts Empowering Act 1953. The reprint incorporates all the amendments to the Act as at 24 September 1953, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

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