

Reprint  
as at 1 August 2020



## Kitchener Memorial Scholarship Trust Act 1941

Public Act 1941 No 20  
Date of assent 13 October 1941  
Commencement 13 October 1941

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### **An Act to make provision for the administration of the Kitchener Memorial Scholarship Fund**

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#### **Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Education.**

## Preamble

Whereas a donation received in 1916 from the Honourable Sir Robert Heaton Rhodes (hereinafter in this Act referred to as the **donor**) provided the nucleus of a Fund known as the Kitchener Memorial Scholarship Fund, which is held by the donor and the Director of Education, in accordance with an informally created trust, for the purpose of providing agricultural scholarships for sons of members of the New Zealand Expeditionary Forces who lost their lives in the Great War:

And whereas the Fund has been augmented by certain other donations, by subsidies from the Consolidated Fund, and by accumulated interest, and it is now desired, in accordance with the wishes of the donor, to vest the Fund in the Public Trustee, to enlarge and define the classes of persons eligible to receive scholarships from the Fund, and to make certain provisions with respect to the award, tenure, and value of scholarships granted from the Fund.

### 1 Short Title

This Act may be cited as the Kitchener Memorial Scholarship Trust Act 1941.

### 2 Interpretation

In this Act, **the Fund** means the Kitchener Memorial Scholarship Fund established as hereinbefore recited, and includes all moneys, investments, and other property for the time being held in trust for the purposes of the Fund.

### 3 Fund vested in Public Trust

- (1) The Fund is hereby vested in Public Trust, without transfer or assignment, and shall be held by him in trust for the provision of scholarships in accordance with this Act.
- (2) The whole of the moneys, investments, and other property held in trust for the purposes of the Fund at the passing of this Act shall be deemed to be the capital of the Fund.
- (3) Any income of the Fund not expended in the year in which it is received shall fall into and form part of the capital of the Fund.
- (4) Public Trust may accept and receive any gift, bequest, or devise of any money or other property to be held as an accretion to the Fund and upon the trusts and subject to the provisions of this Act.
- (5) Capital moneys forming part of the Fund may from time to time be invested by Public Trust, with the approval of the advisory trustees, in any investment authorised by law for the investment of trust funds, but, save as aforesaid, all such moneys available for investment shall fall into and form part of the common fund of Public Trust.

Section 3 heading: amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 3(1): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100)

Section 3(4): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100)

Section 3(5): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100)

#### **4 Advisory trustees**

- (1) Subject to the provisions of this section, the New Zealand Vice-Chancellors Committee (continued by section 311(1) of the Education and Training Act 2020) and the donor shall be advisory trustees for the purposes of this Act.
- (2) The donor may at any time and from time to time, by writing under his hand, nominate any person to act as an advisory trustee in his stead.
- (3) On the death of the donor, and thereafter from time to time, the personal representative of the donor, or, if there is no such personal representative, the Rector of the Canterbury University College, may appoint an advisory trustee who shall be a person related to the donor in a degree of relationship not more remote than the third degree. If there shall be no person so related to the donor and able and willing to act as advisory trustee the Rector of the Canterbury University College for the time being shall act as advisory trustee.
- (4) If at any time there is no advisory trustee in office other than the New Zealand Vice-Chancellors Committee,—
  - (a) that committee shall be the sole advisory trustee; and
  - (b) references in this Act to the advisory trustees shall be read as references to that committee.

Section 4(1): replaced, on 23 July 1990, by section 50(1) of the Education Amendment Act 1990 (1990 No 60).

Section 4(1): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 4(4): replaced, on 23 July 1990, by section 50(1) of the Education Amendment Act 1990 (1990 No 60).

#### **5 Scholarships to be awarded in accordance with directions of advisory trustees**

- (1) The award of scholarships available under this Act, their value and the terms and conditions of their tenure shall be in the discretion of the advisory trustees, and Public Trust shall, in accordance with the directions of the advisory trustees, pay out of the income of the Fund the amounts from time to time required in respect of any scholarship or scholarships awarded under this Act.
- (2) Public Trust, if directed so to do by the advisory trustees, shall from time to time resort to the capital of the Fund and pay thereout in respect of any scholar-

ships as if it were income of the Fund any sum or sums not exceeding in any one year the sum of 100 pounds:

provided that no such payment shall be made if the effect of making the payment would be to reduce the capital of the Fund to less than 2,000 pounds.

Section 5(1): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 5(2): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

## **6 Classes of persons to whom scholarships may be awarded**

(1) Scholarships in accordance with this Act may be awarded to persons of the following classes, namely:

- (a) past or present members or children of past or present members of any of His Majesty's Naval, Military, or Air Forces who have been engaged on active service during any war in which His Majesty may have been engaged (whether before or after the passing of this Act), and who, at the time of their enlistment for active service, were domiciled in New Zealand, whether actually resident therein or not; or
- (b) past or present members or children of past or present members of the New Zealand Naval, Military, or Air Forces, not being persons to whom the last preceding paragraph applies; or
- (c) persons who have been continuously resident in New Zealand for a period of not less than 3 years immediately before the award of a scholarship.

(2) Where 2 or more applications are received for any available scholarship, an applicant qualified in accordance with paragraph (a) of the last preceding subsection shall be given preference over an applicant who is qualified in accordance with paragraph (b) or paragraph (c) of that subsection, and an applicant who is qualified in accordance with the said paragraph (b) shall have preference over an applicant who is qualified only in accordance with paragraph (c) of the said subsection.

(3) Subject to the last preceding subsection, scholarships shall be awarded in the discretion of the advisory trustees.

Section 6(1)(a): amended, on 12 December 1983, by section 2 of the Kitchener Memorial Scholarship Trust Amendment Act 1983 (1983 No 78).

Section 6(1)(b): amended, on 12 December 1983, by section 2 of the Kitchener Memorial Scholarship Trust Amendment Act 1983 (1983 No 78).

## **7 Scholarships to be held at university providing higher education in agriculture**

(1) Every scholarship awarded under this Act shall be held at a university (within the meaning of the Universities Act 1961) providing higher education in subjects relating to agriculture.

- (2) Except in special circumstances, of which the advisory trustees shall be the judge, scholarships awarded under this Act shall be awarded alternately for tenure at a university in the South Island and a university in the North Island.
- (3) So far as in the opinion of the advisory trustees it is practicable so to do, scholarships shall be held on conditions corresponding as nearly as may be to the conditions for the time being applicable to bursaries in agriculture awarded in accordance with any regulations for the time being in force under the Education and Training Act 2020, in relation to such bursaries.

Section 7 heading: replaced, on 12 December 1983, by section 3 of the Kitchener Memorial Scholarship Trust Amendment Act 1983 (1983 No 78).

Section 7(1): replaced, on 12 December 1983, by section 3(1) of the Kitchener Memorial Scholarship Trust Amendment Act 1983 (1983 No 78).

Section 7(2): amended, on 12 December 1983, by section 3(2) of the Kitchener Memorial Scholarship Trust Amendment Act 1983 (1983 No 78).

Section 7(3): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

## **8 Existing scholarships**

All scholarships payable out of the Fund and in force on the passing of this Act shall be deemed to have been awarded in accordance with this Act.

## Reprints notes

### **1** *General*

This is a reprint of the Kitchener Memorial Scholarship Trust Act 1941 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Education and Training Act 2020 (2020 No 38): section 668

Public Trust Act 2001 (2001 No 100): section 170(1)

Education Amendment Act 1990 (1990 No 60): section 50(1)

Kitchener Memorial Scholarship Trust Amendment Act 1983 (1983 No 78)