

Reprint
as at 30 January 2021



Eastwoodhill Trust Act 1975

Private Act	1975 No 1
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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.

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An Act to establish the Eastwoodhill Trust Board

Preamble

Whereas William Douglas Cook late of Eastwoodhill near Gisborne, sheep farmer, over a period of many years established on the property described in the Schedule and popularly known as Eastwoodhill an arboretum:

And whereas after unsuccessful endeavours made by him in his later years to arrange the transfer of the property to a body capable of maintaining it as an arboretum he sold the property to Heathcote Beetham Williams of Gisborne, sheep farmer, who has since retained and cared for this property and has continued endeavours to obtain some arrangement with a suitable existing organisation for the maintenance and development of the arboretum but without success:

And whereas the said Heathcote Beetham Williams has now agreed to the vesting of the property in a board to be established under this Act in the belief that a body so constituted offers the best prospect for the maintenance and development of the arboretum:

And whereas the type of constitution established by this Act could not be arranged otherwise than by legislation.

1 Short Title

This Act may be cited as the Eastwoodhill Trust Act 1975.

2 Interpretation

In this Act, unless the context otherwise requires,—

board means the Eastwoodhill Trust Board constituted under this Act

Eastwoodhill means the land described in the Schedule together with any additional land which may be acquired by the board for the purposes of the board.

3 Constitution of board

- (1) There is hereby constituted for the purposes of this Act, a board to be called the Eastwoodhill Trust Board.

- (2) The board shall be a body corporate with perpetual succession and a common seal and shall be capable of acquiring, holding, and disposing of real or personal property, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may do and suffer.

4 Membership of board

- (1) The board shall consist of 6 persons who shall be appointed as follows:
- (a) a person resident in the district administered by the Gisborne District Council or the Wairoa District Council appointed by the Minister of Conservation:
 - (b) a person appointed by the board after consulting Heathcote Beetham Williams or, if he is unable or unwilling to act, his adult descendants resident in either of the districts referred to in paragraph (a):
 - (c) a person appointed by the board after consulting the Gisborne District Council as to the person to be appointed:
 - (d) a person appointed by the Poverty Bay Horticultural Society Incorporated:
 - (e) a person appointed by the Gisborne Branch of the New Zealand Farm Forestry Association Incorporated:
 - (f) a person appointed by the board after consulting the Friends of Eastwoodhill Association.
- (2) If any appointer referred to in subsection (1) ceases to exist or fails to make an appointment and notify the board of that appointment within 3 months after being requested to do so, the board shall make the appointment.
- (3) The chairman of the board shall be appointed annually at the annual meeting of the board and shall hold office until the end of the next annual meeting of the board.

Section 4: replaced, on 15 December 1994, by section 2 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

5 Term of office of members

- (1) Subject to section 5A, the members of the board holding office on the commencement of this section shall continue to hold office until the end of the annual meeting of the board held in 1995, and shall then retire as follows:
- (a) at the annual meeting of the board held in 1995, 2 such members shall retire:
 - (b) at the annual meeting of the board held in 1996, a further 2 such members shall retire:
 - (c) at the annual meeting of the board held in 1997, the remaining 2 such members shall retire.

- (2) The order of retirement of members pursuant to subsection (1) shall be determined, before the annual meeting of the board to be held in 1995, by agreement among those members or, failing agreement, shall be determined by lot.
- (3) Subject to section 5A, every member of the board appointed after the annual meeting of the board held in 1995 shall hold office for a term expiring at the end of the annual meeting of the board held in the third year after the year in which the member was appointed, but shall be eligible for reappointment.

Section 5: replaced, on 15 December 1994, by section 3 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

5A Extraordinary vacancies

- (1) The office of a member of the board shall become vacant if the member—
 - (a) dies; or
 - (b) resigns office by written notice to the board; or
 - (c) is declared bankrupt; or
 - (d) is convicted of any offence punishable by a term of imprisonment of 2 years or more; or
 - (e) becomes subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or becomes a special patient as defined in section 2(1) of that Act; or
 - (f) becomes a person in respect of whom an order is made pursuant to the Protection of Personal and Property Rights Act 1988; or
 - (g) is absent from 4 consecutive meetings of the board without the leave of the board.
- (2) When the office of any member becomes vacant the vacancy shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall hold office for the residue of the term for which his or her predecessor would have held office if the vacancy had not occurred.

Section 5A: inserted, on 15 December 1994, by section 3 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

5B Acts of board not to be questioned on certain grounds

No act of the board shall be questioned or invalidated on the grounds of any error or irregularity in the appointment of any member or because of any vacancy in the membership of the board.

Section 5B: inserted, on 15 December 1994, by section 3 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

6 First appointment of members of the board

[Repealed]

Section 6: repealed, on 15 December 1994, by section 4 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

7 Advisory committee

[Repealed]

Section 7: repealed, on 15 December 1994, by section 4 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

8 Committees

- (1) The board may from time to time appoint, discharge, alter, continue, or reconstitute such committees as it thinks fit to advise it on such matters concerning its functions as are referred to them by the board.
- (2) Each committee shall elect its own chairman annually.
- (3) Each committee shall carry out such duties as shall be laid down by the board and in other respects as the committees shall themselves determine.

Section 8(1): amended, on 15 December 1994, by section 5 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

9 Meetings of board

- (1) Meetings of the board shall be held at such times and places as the board or the chairman from time to time determines.
- (2) All questions before the board shall be decided by a majority of the votes recorded thereon.

9A Annual meeting of board

As soon as practicable after a draft of the annual financial report which the board is required to make pursuant to section 19 has been prepared in each year, the board shall meet to consider and finalise that draft report and to appoint a chairman of the board for the ensuing year.

Section 9A: inserted, on 15 December 1994, by section 6 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

10 Procedure at meetings

- (1) The chairman of the board and of each committee shall preside at every meeting of the board or committee at which he is present, but in his absence from any meeting the members present shall appoint one of their number to preside at the meeting.
- (2) At any meeting of the board or of a committee the person presiding shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

- (3) At every meeting of the board 3 members shall form a quorum and no business shall be transacted at any meeting unless a quorum is present.

11 Contracts

- (1) Any contract which, if made between private persons, must be by deed shall, if made by the board, be in writing under the seal of the board.
- (2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the board, be either in writing under the seal of the board or in writing signed by any 2 members of the board on behalf of and by direction of the board.
- (3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the board by any member acting by direction of the board, but no oral contract shall be made involving the payment by the board of a sum exceeding \$2,000.
- (4) Notwithstanding anything in subsections (1) to (3), no contract made by or on behalf of the board shall be invalid by reason only that it is not made in the manner prescribed by this section if it is made pursuant to a resolution of the board or to give effect to a resolution of the board.

Section 11(3): amended, on 15 December 1994, by section 7 of the Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P)).

12 Functions of board

- (1) The primary function of the board shall be to maintain and develop Eastwoodhill as an arboretum.
- (2) So far as it is consistent with its primary function the board shall use its best endeavours to make Eastwoodhill available to the public for its education and recreation.

13 Powers of board

- (1) Subject to the provisions of this Act and to subsections (2) and (3) the board shall in respect of Eastwoodhill have and exercise all the powers, authorities, and discretions conferred on trustees by the Trusts Act 2019 and shall have all such other powers as may be reasonably necessary to enable it to carry out its functions, including the power to accept donations, gifts, and legacies for the purposes of the board.
- (2) The board shall not be entitled to sell or lease any portion of Eastwoodhill without—
- (a) a resolution of the board to do so in favour of which every member of the board has voted; and
 - (b) the written consent of the Minister of Conservation.
- (3) The board may carry on the business of sheep and cattle farming on any portion of Eastwoodhill which is not for the time being occupied by the arboretum

or on any of the remaining portion of Eastwoodhill to the extent that the use of such lands for grazing may in the board's opinion be advantageous to the main purposes of the board.

Section 13(1): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 13(2)(b): amended, on 1 April 1987, pursuant to section 65(2) of the Conservation Act 1987 (1987 No 65).

Section 13(3): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

14 Bylaws

The board may from time to time by resolution make bylaws for all or any of the following purposes:

- (a) for controlling the admission of persons, animals, or vehicles to Eastwoodhill:
- (b) for preventing disorderly or unseemly conduct or behaviour of persons in Eastwoodhill:
- (c) for preventing persons gaining or attempting to gain admission to Eastwoodhill without the authority of the board:
- (d) for the regular and efficient government and management of Eastwoodhill:
- (e) for the safety and preservation of Eastwoodhill and to prevent damage thereto.

15 Penalty for breach of bylaws

- (1) Every person who contravenes or fails to comply with any bylaw made under this Act commits an offence and shall be liable on conviction to a fine not exceeding \$100, and shall also be civilly liable for all damage caused by the contravention or non-compliance.
- (2) The board is hereby declared to be a local authority for the purposes of section 73 of the Public Finance Act 1989.

Section 15(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 15(2): replaced, on 1 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

16 Purposes declared charitable

It is hereby declared that the purposes of the board are charitable purposes.

17 Refund of expenditure by board members

The members of the board and of every committee shall be entitled to receive from the funds of the board a refund of all money reasonably expended by them in respect of their attendance at meetings of the board or otherwise in transacting the business of the board.

18 Books of account

The board shall cause proper books of account to be kept in respect of all matters relating to the administration of Eastwoodhill.

19 Annual financial report

- (1) At the end of each financial year ending with 31 March the board shall cause to be prepared a report of the operations of the board for the year.
- (2) The report shall contain a statement of the total assets and liabilities as at the end of the year, together with an account of receipts and payments and of income and expenditure showing the financial transactions for the year.
- (3) No person shall be qualified for appointment as auditor of the board unless he would be qualified for appointment as auditor of a company under the Companies Act 1993.
- (4) As soon as practicable after 30 June in each year the board shall furnish to the Minister of Conservation a copy of the report referred to in subsection (1) including a copy of its audited accounts.

Section 19(3): amended, on 1 July 1997, pursuant to section 2(1) of the Companies Act Repeal Act 1993 (1993 No 126).

Section 19(4): amended, on 1 April 1987, pursuant to section 65(2) of the Conservation Act 1987 (1987 No 65).

20 Exemption of board members from personal liability

No member of the board shall be personally liable for any act done or omitted by the board or by any member thereof in good faith in the course of the operations of the board.

21 Vesting Eastwoodhill in board

The land described in the Schedule is hereby vested in the board, and the District Land Registrar for the Gisborne Land Registration District is hereby authorised and directed, upon receipt of an application in a form acceptable to him, to register the board as the registered proprietor of the said land and to do all such other things as are necessary to give effect to this Act.

22 Private Act

This Act is hereby declared to be a private Act.

Schedule

s 21

An estate in fee simple in all that parcel of land containing 131.02734 ha (323 acres 3 roods 04.1 perches), more or less, being part Lot 1, Deposited Plan 4294, situate in Blocks IX and X, Waikohu Survey District, and being the balance of the land comprised in certificate of title No 1A/687, Gisborne Land Registry.

Reprints notes

1 *General*

This is a reprint of the Eastwoodhill Trust Act 1975 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*

Trusts Act 2019 (2019 No 38): section 161

Criminal Procedure Act 2011 (2011 No 81): section 413

Eastwoodhill Trust Amendment Act 1994 (1994 No 7 (P))

Companies Act Repeal Act 1993 (1993 No 126): section 2(1)

Public Finance Act 1989 (1989 No 44): section 86(1)

Conservation Act 1987 (1987 No 65): section 65(2)