

**Reprint
as at 30 January 2021**



Kirkpatrick Masonic Trust Empowering Act 1998

Private Act 1998 No 1
Date of assent 14 May 1998
Commencement 14 May 1998

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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.

An Act to—

- (a) **widen the purposes for which the residuary estate of the late Samuel Kirkpatrick may be applied towards assisting with the education and accommodation of female children who are in need; and**
- (b) **confer powers to sell, lease, or let Kirkpatrick House, and to sell or dispose of its furniture and effects; and**
- (c) **require the proceeds of any sale of Kirkpatrick House and the proceeds of any sale of the furniture and effects to form part of the residuary estate of the late Samuel Kirkpatrick; and**
- (d) **confer power to acquire or erect alternative accommodation for the wider purposes to which the residuary estate may be applied; and**
- (e) **consolidate and amend legislation relating to the Kirkpatrick Masonic Institute**

Preamble

Whereas—

- A Samuel Kirkpatrick (**the testator**) of Nelson, manufacturer, died on 21 May 1925:
- B The Public Trustee is the trustee under the testator’s will:
- C Under his will (paragraph 7 of which is set out in the Schedule of this Act), the testator—
 - (a) gave his family residence at Nelson and the furniture and other effects in it so as to permit a Board of Governors (**the Board**) to manage it as a Masonic institution or boarding establishment primarily for the boarding and maintenance and (if his residuary estate was sufficient and the Board thought it expedient) education of female orphans of certain Freemasons; and
 - (b) provided for the income from his residuary estate to be applied by the Board for the purposes of carrying on the institution:
- D The institution was opened on 4 April 1926 and became known as the Kirkpatrick Masonic Institute, but is now known as Kirkpatrick House:
- E The Kirkpatrick Masonic Institute Empowering Act 1930 enabled the Board to accept and use gifts for the purposes of the Institute, and to distribute money to the orphans for certain purposes:
- F The Kirkpatrick Masonic Institute Empowering Amendment Act 1983 enabled the Board, among other things, to—
 - (a) provide for the boarding and maintenance at Kirkpatrick House of the daughters of Freemasons of good standing in their Lodges or of any other female children nominated for admission by a Lodge or other

Masonic body, who are in a position of need because of the death, illness, or misfortune of either or both parents; and

- (b) if the residuary estate is sufficient and the Board thinks it expedient, pay for the education of any of those children while resident in Kirkpatrick House and pay for their further education and advancement in life after leaving Kirkpatrick House,—

but with preference being given to female children who qualify under paragraph 7 of the testator's will:

G The Board has advised the Public Trustee that because it has become uneconomic and inappropriate to manage Kirkpatrick House for the original purposes, the Public Trustee should have the power to sell, lease, or let Kirkpatrick House and apply the proceeds to the wider purposes specified in paragraph H. The Board has also advised the Public Trustee that the Public Trustee should have the power to acquire or erect alternative accommodation:

H The Board has also advised the Public Trustee that the trusts created by the will (as extended and varied by legislation) would be of greater public benefit if they were widened to permit the Board to use the income from the residuary estate to—

- (a) assist in paying for the education, at any level, of any female children who have been nominated by a Lodge or other Masonic body and who are in need because of the death, illness, or misfortune of either or both parents; and
- (b) provide accommodation for, or assist in paying for the accommodation of, those female children while they are being educated (whether or not they are receiving assistance from the Board with the cost of their education),—

but with preference being given to children of deceased Freemasons:

I The Public Trustee agrees that it is desirable to widen the trusts in the manner proposed by the Board:

J The objects of this Act can be attained only by legislation.

1 Short Title

This Act may be cited as the Kirkpatrick Masonic Trust Empowering Act 1998.

2 Interpretation

In this Act, unless the context otherwise requires,—

Board means the Board of Governors established under the will of the testator, and incorporated under the Charitable Trusts Act 1957 on 15 August 1974 as The Board of Governors of Kirkpatrick House

education means education at any of the following levels:

- (a) pre-primary:
- (b) primary:
- (c) secondary:
- (d) tertiary;—

and **being educated** has a corresponding meaning

Kirkpatrick House—

- (a) means the piece of land containing 1.0140 hectares, more or less, being part of section 677 City of Nelson and part lot 2 deposited plan 79, and being all the land comprised and described in certificate of title 4A/335 (Nelson Land Registry); and
- (b) in relation to sections 4(1) and 9, includes part of that land

Public Trust means Public Trust constituted under the Public Trust Act 2001

residuary estate—

- (a) means the estate of the testator held by Public Trust on the trusts as set out in paragraph 8 of the will of the testator and extended by this Act; and
- (b) includes—
 - (i) any income derived from that estate:
 - (ii) the proceeds of any sale under section 4 or section 6

testator means Samuel Kirkpatrick, late of Nelson, manufacturer.

Section 2 **Public Trust**: inserted, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

Section 2 **Public Trustee**: repealed, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

Section 2 **Residuary estate** paragraph (a): amended, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

3 **Scope of trusts extended**

- (1) The Board may apply the income from the residuary estate to 1 or more of the following purposes:
 - (a) the education of any female—
 - (i) who has been nominated by a Lodge or other Masonic body; and
 - (ii) who is in a position of need because of the death, illness, or misfortune of either or both of her parents:
 - (b) the accommodation of any female who is being educated and who qualifies for assistance under paragraph (a) (whether or not she is receiving assistance under that paragraph):

- (c) the maintenance, advancement, or benefit of any female who is receiving assistance under paragraph (a) or paragraph (b).
- (2) In deciding who to assist under subsection (1), the Board must give preference to the child of a deceased Freemason.
- (3) This section applies (in respect of applications of income from the residuary estate) in place of paragraph 8 of the testator's will.

4 Sale of Kirkpatrick House

- (1) Public Trust may sell Kirkpatrick House.
- (2) Public Trust must not sell Kirkpatrick House unless Public Trust has, before entering into an agreement to sell, consulted the Board about the proposed sale, but failure to consult does not affect the validity of the sale.

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

Section 4(2): amended, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

5 Retention of Kirkpatrick House pending sale

Pending the sale (if any) of Kirkpatrick House, the Board may manage Kirkpatrick House for, or apply any income from Kirkpatrick House to, 1 or more of the purposes stated in section 3(1).

6 Disposal of furniture and effects

The Board may from time to time, in such manner as the Board thinks fit,—

- (a) sell; or
 - (b) dispose of by way of gift or loan—
- any of the furniture and effects of Kirkpatrick House.

7 Alternative accommodation

- (1) Public Trust may apply the residuary estate to acquire land or erect a building, or both, for 1 or more of the purposes stated in section 3(1).
- (2) The Board may manage the land or building for, or apply any income from the land or building to, 1 or more of the purposes stated in section 3(1).

Section 7(1): amended, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

8 Powers of investment

Pending the application of money in the residuary estate to the purposes authorised by section 3(1), Public Trust must invest any money in the residuary estate in accordance with the Trusts Act 2019.

Section 8: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 8: amended, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

9 Power to let or lease

Public Trust may let or lease—

- (a) Kirkpatrick House; or
- (b) any land acquired or building erected under section 7.

Section 9: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 9: amended, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

10 Acceptance of gifts, grants, and subsidies etc

- (1) The Board may accept any devise, bequest, gift, or grant of real or personal property and apply it to 1 or more of the purposes stated in section 3(1).
- (2) Subsection (1) includes any devise, bequest, gift, or grant of real or personal property to Kirkpatrick House or for any purpose in connection with Kirkpatrick House, if the donor or the donor's personal representative in his or her absolute discretion agrees, or if the High Court orders.
- (3) The Board may apply for and receive grants and subsidies for any female child it is assisting or proposes to assist and, for that purpose, may—
 - (a) enter into an agreement or execute a document; or
 - (b) require a parent or guardian of the child to contribute towards that assistance.

11 Recognition of Board as incorporated body

- (1) The Board is, and since its incorporation under the Charitable Trusts Act 1957 has been, the same Board as the Board of Governors established under the will of the testator.
- (2) Subsection (1) ceases to apply if the Board, as incorporated, is put into liquidation.

12 Repeals

The following enactments are repealed:

- (a) the Kirkpatrick Masonic Institute Empowering Act 1930;
- (b) the Kirkpatrick Masonic Institute Empowering Amendment Act 1983.

13 Validation of Board's past actions

Actions of the Board before the commencement of this Act that would have been valid if this Act had been in force are to be treated as having always been valid.

14 Costs of promoting Act

The costs, charges, disbursements, and expenses of preparing, promoting, and passing this Act must be paid by Public Trust out of the capital of the residuary estate.

Section 14: amended, on 1 March 2002, by section 170(3) of the Public Trust Act 2001 (2001 No 100).

15 Private Act

This Act is a private Act.

Schedule
Paragraph 7 of the Will of Samuel Kirkpatrick

Preamble, recital C

7. I give devise and bequeath free of estate and succession duty all that piece of land situate at Mount Street, Nelson, being the Sections numbered 670–674 and 676 Nelson District containing 3 acres 3 roods 23 perches more or less together with the buildings and erections thereon and all my plate linen china glass books prints pictures furniture and other household effects therein not hereinbefore otherwise disposed of to permit and allow the Board of Governors as hereinafter constituted to use manage and carry on the same as a Masonic Institution or Boarding Establishment primarily for the boarding and maintenance and also (should the income and capital from my residuary estate permit and the Board considers it expedient) the education of the orphan daughters of deceased Freemasons who in the opinion of the said Board shall have been of good standing in their respective Lodges And I declare that for the purposes of this my Will the word “orphan” shall mean a female child whose father has died And I further declare that the orphan daughters of deceased Freemasons of either the English, Irish, Scotch or New Zealand Constitutions shall be eligible for admission to such Institution on the conditions and between the ages from time to time fixed by the Board And I further declare that no part of the said furniture pictures chattels and effects shall be sold exchanged or otherwise disposed of but that they shall so far as possible be kept in the rooms where the children may see them and not in the private rooms of the attendants or manager.

Reprints notes

1 *General*

This is a reprint of the Kirkpatrick Masonic Trust Empowering Act 1998 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

Public Trust Act 2001 (2001 No 100): section 170(3)