

Version
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Queen Elizabeth the Second National Trust Act 1977

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Contents

		Page
	Title	2
1	Short Title	2
2	Interpretation	3
Part 1		
The Queen Elizabeth the Second National Trust		
3	Establishment of Trust	4
4	Directors of Trust	4
5	Membership of Trust	5
6	Terms of office of directors	6
7	Extraordinary vacancies	7
8	Deputy chairman <i>[Repealed]</i>	7
9	Meetings of board	7
10	Special committees	9
11	Delegation of powers	9
12	Protection of directors, members, and committees	9
13	Remuneration of directors and committees	9
14	Disclosure of interests	10

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Department of Conservation.

15	Contracts of Trust	10
16	Rules of Trust	10
17	Bylaws	11
18	Appointment of employees	13
18A	Employment principles	13
19	Status of directors, members, committees, and persons engaged on contract	14

Part 2

Functions and powers of Trust

20	Functions of Trust	14
21	Powers of Trust	15
22	Open space covenants	16
22A	Variation of open space covenants	17

Part 3

Financial provisions

23	National Trust Fund	18
24	National Trust Fund Account	19
25	Powers of investment	19
26	Unauthorised expenditure	20
27	Borrowing powers	20
27A	Liability for debts of Trust	20
28	Financial year	20
29	Donations to Trust	20
30	Exemptions from duties and taxes	20
31	Accounts	21
32	Annual report	21

Part 4

Miscellaneous provisions

33	Public access	21
34	Offences	21

An Act to commemorate the Silver Jubilee of Her Majesty Queen Elizabeth the Second by establishing a national trust to encourage and promote the provision, protection, and enhancement of open space for the benefit and enjoyment of the people of New Zealand

1 Short Title

This Act may be cited as the Queen Elizabeth the Second National Trust Act 1977.

2 Interpretation

In this Act, unless the context otherwise requires,—

board means the board of directors

chairperson means the chairperson of the board

committee means a committee appointed under section 10

covenantor, in relation to an open space covenant, means the owner or lessee for the time being of the area to which the covenant applies

Crown lease means a lease or licence granted under the Land Act 1948 or under any former Land Act; and **lessee** has a corresponding meaning

director means a director of the Trust appointed under section 4

Maori land has the same meaning as it has in section 4 of Te Ture Whenua Maori Act 1993

member means a member of the Trust under section 5

Minister means the Minister of Conservation

open space means any area of land or body of water that serves to preserve or to facilitate the preservation of any landscape of aesthetic, cultural, recreational, scenic, scientific, or social interest or value

owner, in relation to any private land, includes any person having any interest in that land

private land means any land that is for the time being held in fee simple by any person other than the Sovereign; and also means Maori land

reserve means a public reserve as defined in section 2(1) of the Reserves Act 1977

Trust means the Queen Elizabeth the Second National Trust established by section 3

Trust Fund means the National Trust Fund established by section 23

Trust land means any land, or interest in land, of the Trust; but does not mean land that is subject to an open space covenant.

Section 2 **chairperson**: inserted, on 12 June 1991, by section 2(1) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 2 **chairman**: repealed, on 12 June 1991, by section 2(1) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 2 **covenantor**: inserted, on 12 June 1991, by section 2(2) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 2 **deputy chairman**: repealed, on 12 June 1991, by section 2(3) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 2 **Maori land**: amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 2 **Minister**: amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 2 **private land**: editorial change made by the PCO, on 1 August 2024, under sections 86(1) and 87(a) of the Legislation Act 2019 (2019 No 58).

Section 2 **reserve**: amended, on 1 April 1978, pursuant to section 125(1) of the Reserves Act 1977 (1977 No 66).

Part 1

The Queen Elizabeth the Second National Trust

3 Establishment of Trust

- (1) There is hereby established a body to be called the Queen Elizabeth the Second National Trust.
- (2) The Trust shall consist of the board of directors and the members.
- (3) The Trust shall be a body corporate, with perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, and of suing and being sued, and of doing and suffering all other things that bodies corporate may lawfully do and suffer.

4 Directors of Trust

- (1) There shall be a board of the directors of the Trust consisting of the following persons:
 - (a) a chairperson and 3 directors, who shall each be appointed by the Minister in accordance with subsections (2) and (3):
 - (b) 2 directors elected by the members of the Trust in accordance with its rules.
- (2) Subject to subsection (3), the appointments to be made by the Minister under subsection (1)(a) shall be made—
 - (a) following a public invitation that calls for nominations from interested agencies and organisations; and
 - (b) having due regard to—
 - (i) environmental and conservation values; and
 - (ii) the interests of rural land owners; and
 - (iii) the interests of the Maori community.
- (3) Before making any appointment under subsection (1)(a), the Minister—
 - (a) shall consult the Minister of Agriculture and Federated Farmers of New Zealand (Incorporated) on the interests referred to in subsection (2)(b)(ii); and
 - (b) shall consult the Minister of Maori Affairs on the interests referred to in subsection (2)(b)(iii).
- (4) The board shall have the executive control and management of the affairs of the Trust, and shall exercise and perform the functions, powers, and duties of

the Trust in its behalf, and shall be responsible for its effective and efficient administration.

- (5) The powers of the board shall not be affected by any vacancy in its membership.

Section 4: substituted, on 12 June 1991, by section 3(1) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

5 Membership of Trust

- (1) There shall be the following classes of membership of the Trust:
- (a) ordinary subscribing members, being persons who subscribe annually to the Trust Fund the subscription for ordinary subscribing members:
 - (b) junior members, being persons under an age for the time being specified by the board (not being more than 18 years), who subscribe annually to the Trust Fund the subscription for junior members:
 - (ba) family members, being 2 or more persons whom the board regards as living at the same address as a family, and who subscribe annually to the Trust Fund the subscription for family membership:
 - (c) corporate members, being bodies corporate or being other associations or bodies for the time being approved for the purpose by the board, who subscribe annually to the Trust Fund the corporate subscription:
 - (d) life members, being persons who have subscribed to the Trust Fund the life subscription:
 - (e) benefactors, being persons who have given to the Trust money or property of such amount or value as the board by resolution determines to be sufficient to entitle those persons to be distinguished as benefactors:
 - (ea) honorary life members, being persons who have given to the Trust such service as the board by resolution determines to be sufficient to entitle those persons to be distinguished as honorary life members:
 - (eb) covenant life members, being owners, lessees, or lessors of land who have executed in favour of the Trust an open space covenant under section 22, and whom the board determines by resolution to be entitled to be distinguished as covenant life members:
 - (f) such other classes of membership as may be established under subsection (2).
- (2) The Minister may from time to time, on the recommendation of the board, by notice in the *Gazette*, establish other classes of membership of the Trust on such conditions as may be specified in the notice.
- (3) The board may from time to time, by notice published in the *Gazette*, determine the amount of any subscription payable by members of any class (other than benefactors, honorary life members, and covenant life members).

- (4) A notice under subsection (3) may, in the case of the subscriptions payable by corporate members, specify different subscriptions for different categories of corporate members.
- (5) A person who—
 - (a) pays to the Trust the appropriate subscription for any class of membership, and otherwise meets the requirements of the board in relation to that class; or
 - (b) meets the requirements of the board in relation to benefactors, honorary life members, or covenant life members—

shall on doing so become a member of the appropriate class of the Trust.

Section 5(1)(ba): inserted, on 30 March 1987, by section 2(1) of the Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51).

Section 5(1)(ea): inserted, on 30 March 1987, by section 2(2) of the Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51).

Section 5(1)(eb): inserted, on 30 March 1987, by section 2(2) of the Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51).

Section 5(2): substituted, on 30 March 1987, by section 2(3) of the Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51).

Section 5(3): amended, on 30 March 1987, by section 2(4) of the Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51).

Section 5(5)(b): amended, on 30 March 1987, by section 2(5) of the Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51).

6 Terms of office of directors

- (1) The directors appointed under section 4(1)(a) shall hold office for a term of 3 years or such lesser term as the Minister shall specify in the notice of appointment, and, subject to subsection (4) of this section, may from time to time be reappointed.
- (2) The directors elected under section 4(1)(b) shall hold office for a term of 3 years and, subject to subsection (4) of this section and to any rules of the Trust, may from time to time be re-elected.
- (3) Subject in the case of any director elected under section 4(1)(b) to any rules of the Trust, every director holding office at the commencement of this section is hereby deemed to have been appointed for a term of 3 years commencing on the date of his appointment or election.
- (4) No person, whether appointed or elected as a director, shall be eligible to be a director for more than 9 years in total, and any director who holds office for 9 years shall be deemed to have resigned his office on the day on which the ninth year of service is completed.
- (5) For the purposes of subsection (4), any time spent as a director before the commencement of this section shall be counted in calculating the total period for which any director has held office.

- (6) Unless he sooner dies or vacates his office under section 7, every director shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed has expired or his eligibility to remain a director has ceased.

Section 6: substituted, on 12 December 1983, by section 2 of the Queen Elizabeth the Second National Trust Amendment Act 1983 (1983 No 90).

Section 6(1): amended, on 12 June 1991, by section 4(a) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 6(2): amended, on 12 June 1991, by section 4(b) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 6(3): amended, on 12 June 1991, by section 4(c) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

7 Extraordinary vacancies

- (1) A director may at any time resign his office by delivering a notice in writing to that effect to the board.
- (2) A director may at any time be removed from office by the Governor-General for inability to perform the functions of the office, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.
- (3) Where a director dies, resigns, or is removed from office, the vacancy occurring shall be called an extraordinary vacancy.
- (4) On the occurrence of an extraordinary vacancy, the board shall forthwith notify the person or body by whom the director vacating office was appointed or elected of the vacancy.
- (5) An extraordinary vacancy shall be filled in the same manner as the appointment or election of the director vacating office.

Section 7(2): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

8 Deputy chairman

[Repealed]

Section 8: repealed, on 12 June 1991, by section 5 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

9 Meetings of board

- (1) The first meeting of the board shall be held at a time and place to be determined by the Minister.
- (2) Subsequent meetings of the board shall be held at such times and places as it determines.
- (3) Notwithstanding subsection (2), the chairperson may at any time and shall, whenever required in writing to do so by any 3 directors, call a special meeting of the board.

- (4) The chief executive officer of the Trust shall give to every director, and to the Director-General of Conservation, not less than 7 days' notice in writing of every meeting of the board and of the business to be transacted at the meeting, but an inadvertent failure to comply with this subsection shall not invalidate the proceedings of the meeting.
- (5) The Director-General of Conservation or a senior officer of the Department of Conservation authorised by the Director-General to represent him or her for the purpose may attend any meeting of the board and speak on any question before the meeting, but may not vote on any question before the meeting.
- (6) No business may be transacted at a special meeting of the board unless it is specified in the notice required under subsection (4) or all the directors for the time being in New Zealand agree to its transaction at that meeting.
- (7) At every meeting of the board, 4 directors shall be a quorum.
- (8) The chairperson shall preside at every meeting of the board.
- (9) Where for any reason the chairperson is unable to preside at any meeting of the board, the directors present shall elect one of their number to preside at that meeting.
- (10) Every question before a meeting of the board shall be decided by a majority of the votes of the directors present at the meeting.
- (11) On every question before a meeting, the person presiding shall have a deliberative vote, and in the case of an equality of votes he shall also have a casting vote.
- (12) A resolution signed or assented to by letter or telegram by every director for the time being in New Zealand shall have the same effect as a resolution duly passed at a meeting of the board.
- (13) Subject to the other provisions of this Act, the board may regulate its own procedure as it thinks fit.

Section 9(3): amended, on 12 June 1991, by section 6(1) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 9(4): amended, on 22 October 2003, by section 3 of the Queen Elizabeth the Second National Trust Amendment Act 2003 (2003 No 96).

Section 9(4): amended, on 12 June 1991, by section 6(2) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 9(5): substituted, on 12 June 1991, by section 6(3) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 9(7): amended, on 12 June 1991, by section 6(4) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 9(8): amended, on 12 June 1991, by section 6(5) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 9(9): substituted, on 12 June 1991, by section 6(6) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

10 Special committees

The board may from time to time appoint special committees (including advisory and technical committees) for particular purposes, and such committees may consist of persons who are not directors or members of the Trust.

Section 10: substituted, on 12 June 1991, by section 7 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

11 Delegation of powers

- (1) The board may from time to time, in respect of any particular matter or class of matters, or in respect of any particular area within New Zealand, in writing delegate to—
 - (a) any director or member or committee, or any other officer of the Trust; or
 - (b) the holder for the time being of any specified office or class of office of the Trust; or
 - (c) any officer of a government department or of a local authority—any of the powers of the board under this Act except this power of delegation.
- (2) Subject to any general or special directions given to him or to it by the board, the person or committee to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him or it directly by this Act and not by delegation.
- (3) Every person or committee purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the board.

12 Protection of directors, members, and committees

No director, or member of the Trust, or member of any committee, shall be personally liable for any act or omission of the Trust, or of the board, or of any such committee, or of any director, or officer or member of the Trust, if the act or omission is made in good faith in the course of operations of the Trust, or of the board, or of the committee.

13 Remuneration of directors and committees

- (1) The board and every committee are hereby declared to be statutory boards within the meaning of the Fees and Travelling Allowances Act 1951.
- (2) There may, if the Minister so directs, be paid out of the Trust Fund to—
 - (a) the chairperson; and
 - (b) *[Repealed]*
 - (c) the directors; and

- (d) the members of the committees (not being employees of the Trust)—
remuneration by way of fees and salary in accordance with the Fees and Travelling Allowances Act 1951.
- (3) There shall be paid out of the Trust Fund to every person specified in any of paragraphs (a) to (d) of subsection (2) travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951 in respect of time spent by him travelling in the service of the Trust.
- (4) The Fees and Travelling Allowances Act 1951 shall apply accordingly.

Section 13(2)(a): substituted, on 12 June 1991, by section 8 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 13(2)(b): repealed, on 12 June 1991, by section 8 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

14 Disclosure of interests

- (1) The board shall be a local authority within the meaning of section 2(1) of the Local Authorities (Members' Interests) Act 1968, and the directors shall be deemed to be the members of the board for the purposes of that Act.
- (2) *Amendment(s) incorporated in the Act(s).*

15 Contracts of Trust

- (1) The Trust is hereby declared to be a public body for the purposes of the Public Bodies Contracts Act 1959.
- (2) *Amendment(s) incorporated in the Act(s).*

16 Rules of Trust

- (1) The board may from time to time make rules of the Trust, not inconsistent with this Act, for all or any of the following purposes:
- (a) regulating the proceedings of the board and of committees:
 - (b) providing for the custody of the property of the Trust, and the custody and use of the common seal of the Trust:
 - (c) regulating the terms and conditions of employment of persons under section 18(6):
 - (d) prescribing the conditions on which the Trust will make grants under this Act, and the manner in which applications for grants shall be made:
 - (e) regulating the manner in which the Trust Fund shall be dealt with:
 - (f) subject to subsections (4) and (5), prescribing the method of election of the directors specified in section 4(1)(b), and the form and manner of keeping an electoral roll of members for that purpose, and providing for matters incidental thereto:
 - (g) providing for such other matters as may be necessary or expedient for the carrying out of the functions of the Trust.

- (2) Rules made for any purpose specified in subsection (1)(f) may limit the right of junior members, or of family members who are under the age for the time being specified by the board in respect of junior membership, to vote in any election.
- (3) Notice in writing of every proposed resolution to make rules under this section or for the amendment or revocation of any rule so made, (including a copy of the proposed rules, amendment, or revocation) shall be given to every director for the time being in New Zealand, not less than 21 days before the meeting at which the proposal is to be moved, but an inadvertent failure to comply with this subsection shall not invalidate the making, amendment, or revocation of any rule at that meeting.
- (4) Notwithstanding that subsection (1) confers a discretionary power on the board to make rules, the following provisions shall apply in respect of the election of the directors specified in section 4(1)(b):
 - (a) the board may not make rules under this section for the election of such directors before the expiration of the period of 1 year following the commencement of this Act, but shall make such rules as soon as practicable after the expiration of that period:
 - (b) no rules made for the election of such directors shall come into force unless they have been approved by the Minister.
- (5) No person shall be capable of being elected as a director specified in section 4(1)(b) unless he is—
 - (a) a member of the Trust; or
 - (b) an officer of a corporate member of the Trust.

Section 16(1)(c): amended, on 12 June 1991, by section 9(a) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 16(1)(f): amended, on 12 June 1991, by section 9(b) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 16(2): amended, on 30 March 1987, by section 3 of the Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51).

Section 16(4): amended, on 12 June 1991, by section 9(b) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 16(5): amended, on 12 June 1991, by section 9(b) of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

17 Bylaws

- (1) The board may from time to time make bylaws, not inconsistent with this Act or with any other enactment, for all or any of the following purposes:
 - (a) providing for the protection, preservation, management, and use of Trust land:
 - (b) controlling, restricting, or prohibiting the entry of animals, or specified classes of animals, on Trust land:

- (c) controlling, restricting, or prohibiting the admission of persons to Trust land, and prescribing charges that shall be payable to the Trust for such admission:
- (d) controlling, restricting, or prohibiting the entry of vehicles, vessels, and aircraft on Trust land:
- (e) regulating the conduct of persons on Trust land:
- (f) providing that any breach of a bylaw shall be an offence, and imposing fines not exceeding \$2,000 for such offences:
- (g) generally regulating the use of Trust land, and providing for the preservation of order and the prevention of fires and nuisances on Trust land, and the safety of persons using Trust land.
- (2) No bylaw may be made under this section in derogation of the rights of any person having any legal or equitable interest in any Trust land to which the bylaw relates.
- (3) Any bylaw made under this section may be expressed to apply to all or any specified Trust land in respect of which bylaws may be made.
- (4) Notice in writing of every proposed resolution to make bylaws under this section or for the amendment or revocation of any bylaw so made (including a copy of the proposed bylaws, amendment, or revocation) shall be given to every director for the time being in New Zealand, not less than 21 days before the meeting at which the proposal is to be moved, but an inadvertent failure to comply with this subsection shall not invalidate the making, amendment, or revocation of any bylaw at that meeting.
- (5) The board may not make bylaws under this section unless the Minister has approved the proposed bylaws.
- (6) Bylaws under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must:	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	• publish it in the <i>Gazette</i>	
	• notify by an advertisement as to their nature in at least 2 newspapers circulating in every locality in which any Trust land to which they relate is situated	
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It is not disallowable	LA19 s 115

This note is not part of the Act.

Section 17(1)(f): amended, on 12 June 1991, by section 10 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 17(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 17(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

18 Appointment of employees

- (1) The board shall from time to time appoint—
 - (a) a chief executive officer, who shall have such designation as the board may from time to time determine; and
 - (b) such other officers and employees of the Trust as may be necessary for the administration of its affairs.
- (2) The chief executive officer shall be the chief administrative officer of the Trust and, subject to the other provisions of this Act, shall be responsible to the board for the efficient and economical administration of the affairs of the Trust.
- (3) Any office held by any person appointed under subsection (1) may be held in conjunction with any office held in the public service.
- (4) Any person appointed under subsection (1)(a) shall be employed on such terms and conditions of employment as the board from time to time determines in agreement with the Public Service Commission.
- (5) The persons appointed under subsection (1)(b) shall be employed on such terms and conditions of employment as the board from time to time determines after consultation with the Public Service Commission.
- (6) Subject to the rules of the Trust, the board may from time to time enter into contracts with persons, on such terms and conditions as it thinks fit, to provide such services or perform such work for the Trust as the board may require.
- (7) Subject to the rules of the Trust, the persons engaged on contract under subsection (6) shall be paid such remuneration as the board may determine.
- (8) Except as otherwise provided in this Act, nothing in the Public Service Act 2020 shall apply in relation to any officer or employee of the board, or to any person engaged on contract under subsection (6).

Section 18: substituted, on 12 June 1991, by section 11 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 18(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 18(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 18(5): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 18(8): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

18A Employment principles

The board shall operate a personnel policy that complies with the principle of being a good employer by following, subject to this Act, as closely as possible

and as if the board were the chief executive of a department, the provisions of sections 73 and 74 of the Public Service Act 2020.

Section 18A: inserted, on 12 June 1991, by section 11 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 18A: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

19 Status of directors, members, committees, and persons engaged on contract

No person, by reason only of his being a director, or a member of the Trust, or a member of a committee, or a person engaged on contract under section 18(6), shall be deemed to be employed in the State services for the purpose of the Public Service Act 2020, or in the Government service for the purpose of the Government Superannuation Fund Act 1956.

Section 19: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 19: amended, on 12 June 1991, by section 12 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Part 2 Functions and powers of Trust

20 Functions of Trust

- (1) The general functions of the Trust shall be to encourage and promote, for the benefit and enjoyment of the present and future generations of the people of New Zealand, the provision, protection, preservation, and enhancement of open space.
- (2) In particular, but without limiting the general functions described in subsection (1), the Trust shall—
 - (a) advise the Minister on the provision, protection, preservation, enhancement, and use of open space;
 - (b) formulate, investigate, and appraise policies and specific proposals for the provision, protection, preservation, restoration, enhancement, and use of open space;
 - (c) undertake on its own account a continuing review of the adequacy and accessibility of all forms of open space;
 - (d) undertake the identification and classification of potential reserves and recreation areas as being of national, regional, local, or special significance;
 - (e) make recommendations as to the matters specified in paragraphs (b) to (d) to appropriate Ministers, government departments, and other persons and bodies, including recommendations to appropriate Ministers as to

areas of special significance that should be given special protection and the methods of such protection;

- (f) undertake, and encourage and promote the undertaking by other interested persons and bodies, of research and studies into matters relating to open space;
- (g) disseminate knowledge and information and give advice, relating to open space, to all interested persons and bodies, and encourage and promote such activities by other interested persons and bodies;
- (h) encourage and promote the co-ordination of the activities of all interested government departments, persons, and bodies in matters relating to open space;
- (i) negotiate the execution of open space covenants and the acquisition in its own name of any open space; and
- (j) distribute from the Trust Fund such grants as it thinks fit to encourage, promote, and assist the undertaking by suitable persons and bodies of any research, studies, or other activities relating to open space, and the acquisition or establishment of any open space.

21 Powers of Trust

- (1) The Trust shall have all the powers that are reasonably necessary or expedient to enable it to carry out its functions under this Act.
- (2) In particular, but without limiting the generality of its powers under subsection (1), the Trust may from time to time do all or any of the following things:
 - (a) acquire by purchase, lease, exchange, bailment, gift, or otherwise, any interest in land or any other form of property;
 - (b) dispose of any of its property by sale, lease, exchange, or bailment;
 - (c) engage any person or body to undertake the management, alteration, development, improvement, repair, or maintenance of any of its property;
 - (d) impose charges, by resolution or by bylaws, for admission to any Trust land to which it has power to control admission;
 - (e) pay wholly or partly the rates for any owner of land who has executed an open space covenant in favour of the Trust or has allowed the Trust the use of his land;
 - (f) publish reports, recommendations, and other information relating to any functions of the Trust.
- (3) Notwithstanding paragraph (b) of subsection (2), where any land has been transferred to the Trust by way of gift, the board shall not dispose of that land by way of sale or exchange unless it has first offered the land, on such terms and conditions as the board thinks fit, to the donor or (in the case of a gift of Maori land) to the descendants of the donor.

- (4) For the purposes of subsection (3), the descendants of a donor of Maori land shall be determined by order of the Maori Land Court.

22 Open space covenants

- (1) Where the board is satisfied that any private land, or land held under Crown lease, ought to be established or maintained as open space, and that such purpose can be achieved without the Trust acquiring the ownership of the land or, as the case may be, the lessee's interest in the land, the board may treat and agree with the owner or lessee of the land for the execution by the owner or lessee in favour of the Trust of an open space covenant on such terms and conditions as the board and the owner or lessee may agree.
- (2) In the case of any private land, where the person with whom the board is treating is an owner by virtue of being a lessee of the land, the consent of the lessor (and, if the land is Maori land, of the Registrar of the Maori Land Court) shall be required to the execution of the covenant, and any such consent may be given subject to the inclusion in the open space covenant of any conditions that the person giving his consent thinks necessary.
- (3) In the case of a Crown lease, the consent of the person or authority charged with the administration of the land shall be required to the execution of the covenant; and that person or authority may consent subject to the inclusion of any conditions in the open space covenant, and may agree to a reduction in rent if, having regard to the basis for fixing the rent, it appears fair and equitable to do so.
- (4) The effect of an open space covenant shall be to require the land to which it applies to be maintained as open space in accordance with the terms of the covenant and, subject always to those terms, in accordance with the other provisions of this Act relating to land to which open space covenants apply.
- (5) An open space covenant may be executed to have effect in perpetuity or for a specified term, according to the nature of the interest in land to which it applies and the terms and conditions of the agreement between the Trust and the owner.
- (6) Notwithstanding any rule of law or equity to the contrary, every open space covenant shall run with and bind the land that is subject to the burden of the covenant, and shall be deemed to be an interest in the land for the purposes of the Land Transfer Act 2017.
- (7) On application by the board, the Registrar-General of Land must note the covenant on the register.
- (8) Where the burden of the covenant applies to land comprising part of the land in a record or other instrument of title, the Registrar-General of Land may require the deposit of a plan in accordance with section 224 of the Land Transfer Act 2017; or, in lieu of such a plan, the Registrar-General of Land may accept a document incorporating the covenant, so long as the document is accompanied

by a certificate given by the Surveyor-General, or the Chief Surveyor of the land district in which the land is situated, to the effect that the covenant is adequately described and properly defined—

- (a) for the nature of the covenant; and
- (b) in relation to existing surveys made in accordance with regulations for the time being in force for the purpose; and
- (c) in accordance with standards agreed from time to time by the board and either the Surveyor-General or the Chief Surveyor, as the case may be.

Section 22(3): substituted, on 12 June 1991, by section 13 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 22(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22(7): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22(8): substituted, on 13 March 1996, by section 2 of the Queen Elizabeth the Second National Trust Amendment Act 1996 (1996 No 5).

Section 22(8): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

22A Variation of open space covenants

- (1) Subject to subsections (2) and (3), the board and the covenantor may, by a memorandum of variation executed by them both,—
 - (a) make to any of the terms and conditions of an open space covenant executed under section 22 any variation that is not contrary to the purposes and objectives of the covenant; and
 - (b) correct any error of description in the covenant (whether with respect to the boundaries of an area of land or otherwise).
- (2) Notwithstanding section 9(10), the board shall not enter into any memorandum of variation under this section unless all of the members of the board agree to the proposed variation.
- (3) Any consent required by section 22 to the execution of an open space covenant shall also be required in the case of any variation of that covenant under this section.
- (4) On application by the board, the Registrar-General of Land must note the variation instrument executed under this section on the register.
- (5) Where the variation of a covenant alters the area of the land to which the covenant relates and that land comprises part of the land in a record or other instrument of title, the Registrar-General of Land may require the deposit of a plan in accordance with section 224 of the Land Transfer Act 2017; or, in lieu of such a plan the Registrar-General of Land may accept a document incorporating the variation, so long as the document is accompanied by a certificate given by the Surveyor-General, or the Chief Surveyor of the land district

in which the land is situated, to the effect that the variation is adequately described and properly defined—

- (a) for the nature of the covenant; and
- (b) in relation to existing surveys made in accordance with regulations for the time being in force for the purpose; and
- (c) in accordance with standards agreed from time to time by the board and either the Surveyor-General or the Chief Surveyor, as the case may be.

Section 22A: inserted, on 12 June 1991, by section 14 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Section 22A(4): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22A(5): substituted, on 13 March 1996, by section 3 of the Queen Elizabeth the Second National Trust Amendment Act 1996 (1996 No 5).

Section 22A(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Part 3

Financial provisions

23 National Trust Fund

- (1) There is hereby established a fund to be known as the National Trust Fund, which shall be the fund of the Trust.
- (2) The capital of the Trust Fund shall consist of the following money:
 - (a) all money received by the Trust out of money appropriated by Parliament as capital grants for the purposes of the Trust:
 - (b) all money lawfully contributed, donated, or bequeathed to the Trust except—
 - (i) the income arising from any shares, debentures, or other similar securities that are held on behalf of the Trust and are the subject of a gift to the Trust; and
 - (ii) any money paid to the Trust in the form of an annuity or with an express direction by the donor that it is to be applied as income:
 - (c) all money derived from the sale of any Trust land:
 - (d) all income transferred to capital under subsection (4).
- (3) The income of the Trust Fund shall consist of:
 - (a) all money received by the Trust out of money appropriated by Parliament as income grants for the purposes of the Trust:
 - (b) all income derived from the investment of money by or on behalf of the Trust under this Act:

- (c) all income derived from the administration of property held by or on behalf of the Trust:
 - (d) all money derived from the leasing of land or resulting from any agreement entered into by the Trust under this Act:
 - (e) all money derived from subscriptions by members of the Trust:
 - (f) all other money not forming part of the capital of the Trust Fund.
- (4) Any income of the Trust Fund not for the time being required for expenditure under this Act may, at the discretion of the Trust, be transferred to the capital of the Trust Fund, whether or not the income has been invested under section 25(3).

24 National Trust Fund Account

- (1) The board shall open and maintain, at such bank as it from time to time determines, an account to be called the National Trust Fund Account.
- (2) All money forming part of the Trust Fund shall, as soon as practicable after it is received by any proper officer of the Trust, be paid into the National Trust Fund Account.
- (3) No money shall be paid out of the National Trust Fund Account except with the authority, and in accordance with any general or special directions, of the board.
- (4) The National Trust Fund Account may only be operated on by cheque or other negotiable instrument (not being a promissory note or bill) signed by a director or other officer of the Trust who is authorised by the board to sign cheques drawn on the account, and countersigned by any other director or officer of the Trust who is authorised by the board to sign such cheques.

25 Powers of investment

- (1) Any money, being capital of the Trust Fund within the meaning of section 23, held by or on behalf of the Trust, and not required for any other purpose, may be invested in accordance with the Trusts Act 2019.
- (2) *[Repealed]*
- (3) Any money, being income of the Trust within the meaning of section 23, may, at the discretion of the board, be invested in accordance with the Trusts Act 2019.

Section 25: substituted, on 1 October 1988, by section 14(1) of the Trustee Amendment Act 1988 (1988 No 119).

Section 25(1): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 25(2): repealed, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 25(3): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

26 Unauthorised expenditure

The Trust may in any financial year expend out of its funds, for purposes not authorised by this or any other Act, any sum or sums not exceeding in the aggregate \$500.

27 Borrowing powers

The Trust may borrow money from the Crown or from any bank, corporation, or person or body; and for the purpose of securing any money so borrowed, it may mortgage, charge, or pledge any right, title, estate, or interest in any of its property.

Section 27: amended, on 21 December 1992, by section 42 of the Public Finance Amendment Act 1992 (1992 No 142).

27A Liability for debts of Trust

The Crown shall not be liable to contribute towards the payment of any debts or liabilities of the Trust other than any sum the Crown is liable to contribute pursuant to any guarantee or indemnity given by the Minister of Finance pursuant to section 65ZD of the Public Finance Act 1989.

Section 27A: inserted, on 21 December 1992, by section 42 of the Public Finance Amendment Act 1992 (1992 No 142).

Section 27A: amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

28 Financial year

The financial year of the Trust shall end with 30 June in every year, or with such other date as the board may from time to time determine.

Section 28: substituted, on 21 December 1992, by section 42 of the Public Finance Amendment Act 1992 (1992 No 142).

29 Donations to Trust

Any local authority within the meaning of the Local Government Act 2002, any other public body, any public corporation, any company or other incorporated body, any unincorporated body of persons, and any other person or body may, unless expressly prohibited by any Act or instrument of trust affecting the donor, make to the Trust donations or gifts and the Trust may accept any such donations or gifts.

Section 29: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

30 Exemptions from duties and taxes

- (1) *[Repealed]*
- (2) *[Repealed]*
- (3) *[Repealed]*
- (4) *Amendment(s) incorporated in the Act(s).*

(5) *[Repealed]*

(6) The income of the Trust shall be exempt from income tax.

Section 30(1): repealed, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

Section 30(2): repealed, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

Section 30(3): repealed, on 24 May 1999, by section 15(1) of the Estate Duty Repeal Act 1999 (1999 No 64).

Section 30(5): repealed, on 31 July 1989 (applying with respect to the land tax for the year of assessment commencing on 1 April 1990 and for every subsequent year), by section 10 of the Land Tax Amendment Act 1989 (1989 No 50).

31 Accounts

(1) The board shall keep full and correct accounts of all money received and expended by the Trust.

(2) Sections 153 to 156 of the Crown Entities Act 2004 apply to the Trust as if it were a Crown entity within the meaning of that Act.

(3) *[Repealed]*

Section 31(2): substituted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 31(3): repealed, on 21 December 1992, by section 42 of the Public Finance Amendment Act 1992 (1992 No 142).

32 Annual report

As soon as practicable after the end of every financial year, the board shall send to the Minister and to every member a report of the proceedings and operations of the Trust for the preceding financial year, together with a copy of its audited financial statements for that year.

Section 32: substituted, on 21 December 1992, by section 42 of the Public Finance Amendment Act 1992 (1992 No 142).

Part 4

Miscellaneous provisions

33 Public access

Subject to any bylaws made under this Act, and to such other conditions as the board considers necessary or (in the case of land subject to an open space covenant) as may be provided for or limited by the covenant, the public shall have freedom of entry and access to all Trust land and to all land subject to an open space covenant.

34 Offences

(1) Every person commits an offence against this Act who, without the authority of the board or of any person or body authorised by the board in that behalf—

- (a) lights on any Trust land any fire otherwise than in accordance with any bylaw made by the Trust in respect of such land; or
 - (b) wilfully damages or causes to be damaged any property or thing vested in or under the control of the Trust; or
 - (c) wilfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, mark, sign, or poster on any Trust land; or
 - (d) wilfully takes or removes, or causes to be taken or removed, from any Trust land, any property or thing vested in or under the control of the Trust; or
 - (e) receives any property or thing vested in or under the control of the Trust knowing the same to have been removed unlawfully from any Trust land.
- (2) Every member of the public who has obtained entry or access under section 33 to any land subject to an open space covenant and who in the course or in consequence of that entry or access—
- (a) lights any fire on that land; or
 - (b) wilfully damages or causes to be damaged any property or thing vested in or under the control of the owner of that land; or
 - (c) wilfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, mark, or sign on that land,—
- without the consent of the owner of that land, commits an offence against this Act.
- (3) Every person commits an offence against this Act who—
- (a) wilfully lights or causes or permits to be lit on any land, other than Trust land, a fire which he knows or ought to have known to be likely to spread into, and which spreads into and damages or destroys, any property or thing vested in or under the control of the Trust; or
 - (b) without the consent of the owner of the land and of the board, alters, obliterates, defaces, pulls up, removes, or destroys any plaque or sign supplied and erected by the board on any land other than Trust land.
- (4) Any person convicted of an offence under this section may, if the court thinks fit, be ordered to pay, in addition to any penalty for which he is liable for the offence, a sum not exceeding the full market value of any property or thing removed from the land, or the cost of the damage done to the property or thing damaged, as assessed by the court. The full market value shall be deemed to be the amount which the Trust or the owner of the property, or thing, as the case requires, would have received by way of purchase price for the property or thing removed if the same had been offered for sale by the Trust or the owner on reasonable conditions in the condition in which it was before its severance and removal from the land.

- (5) Any person who commits an offence against this Act for which no other penalty is provided is liable on conviction to a fine not exceeding \$3,000.

Section 34(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 34(5): amended, on 12 June 1991, by section 15 of the Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37).

Notes

1 *General*

This is a consolidation of the Queen Elizabeth the Second National Trust Act 1977 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Trusts Act 2019 (2019 No 38): section 161

Land Transfer Act 2017 (2017 No 30): section 250

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

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Queen Elizabeth the Second National Trust Amendment Act 2003 (2003 No 96)

Local Government Act 2002 (2002 No 84): section 262

Human Rights Amendment Act 2001 (2001 No 96): section 70(1)

Estate Duty Repeal Act 1999 (1999 No 64): section 15(1)

Stamp Duty Abolition Act 1999 (1999 No 61): section 7

Queen Elizabeth the Second National Trust Amendment Act 1996 (1996 No 5)

Te Ture Whenua Maori Act 1993 (1993 No 4): section 362(2)

Public Finance Amendment Act 1992 (1992 No 142): section 42

Queen Elizabeth the Second National Trust Amendment Act 1991 (1991 No 37)

Land Tax Amendment Act 1989 (1989 No 50): section 10

Trustee Amendment Act 1988 (1988 No 119): section 14(1)

Conservation Act 1987 (1987 No 65): section 65(1)

Queen Elizabeth the Second National Trust Amendment Act 1987 (1987 No 51)

Queen Elizabeth the Second National Trust Amendment Act 1983 (1983 No 90)

Reserves Act 1977 (1977 No 66): section 125(1)