

# **Christ's College (Canterbury) Amendment Bill**

Private Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to amend the Christ's College (Canterbury) Act 1910 to remove difficulties in administering property vested in the College where the intended purpose or purposes for which the property was given to or vested in the College have, by the passage of time, become redundant, uncertain as to application, or impractical to implement, or the property generates income that is inadequate or in excess of the amount necessary for those purposes.

The proposed amendment provides the governing body with the power to apply property vested in the College for some other purpose for the benefit of the College in those circumstances.

The proposed amendment is similar to the provisions of the Charitable Trusts Act 1957 which enable the trustees to apply for High Court approval of a new purpose in certain circumstances. However, the number of trusts administered by the College would require numerous applications to the High Court and, in the past Parliament has given the Board wide powers through amending legislation, recognising that the College Board is a strong body that can be trusted in the exercise of these powers.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The Bill is to come into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Bill amends the Christ's College (Canterbury) Act 1910 (the **principal Act**).

*Clause 4* states the purpose of the Bill. The purpose is to amend the principal Act to authorise the governing body of Christ's College to apply property, in certain circumstances, to the benefit of the College even though the property is not applied for the purpose for which the property was given to, or vested in, the College.

*Clause 5* substitutes *new section 5* in the principal Act.

*New subsection (1)* is to the same effect as the current section 5, ie the principal Act does not confer power to use property for the purposes other than were intended by any disposition setting out the purposes for which property was given to, or vested in, the College.

*New subsection (2)* provides that *new subsection (1)* applies subject to *new subsections (3) to (5)*.

*New subsection (3)* authorises the governing body, if satisfied that 1 or more of the circumstances described in *new subsection (4)* apply to a disposition of property referred to in *new subsection (1)*, to apply the property for the benefit of the College even though the property is not applied for the purpose for which it was given to, or vested in, the College.

*New subsection (4)* specifies the circumstances in which property may be applied for other purposes under *new subsection (3)*. The circumstances are—

- the purposes for which the property was given or vested have become, wholly or in part, redundant, uncertain as to application, or impractical to implement; or
- the amount of the property is inadequate for the purposes for which it was given or vested; or
- the amount of the property is more than necessary for the purposes for which it was given or vested.

*New subsection (5)* provides that, to avoid doubt, *new subsections (2) to (4)* apply to a disposition of property whether made before or after the commencement of the principal Act.

*New subsection (6)* contains definitions.

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### **Preamble**

- (1) The governing body of Christ's College holds property given to, or vested in, it for various purposes:
- (2) Over time, some of those purposes have become redundant, uncertain as to application, impractical to implement, or the income derived from the property is inadequate or in excess of the amount necessary for the purposes for which the property was given to, or vested in, the governing body: 5
- (3) Section 5 of the Christ's College (Canterbury) Act 1910 expressly provides that that Act does not authorise property to be used for purposes other than were intended by any disposition of the property setting out the purposes for which the property was given to, or vested in, the College: 10

- (4) The governing body wishes to have the authority to apply property in these circumstances to provide more appropriate and enhanced benefit to the College:
- (5) The objects of this Act cannot be achieved without legislation:

**The Parliament of New Zealand therefore enacts as follows:** 5

**1 Title**

This Act is the Christ's College (Canterbury) Amendment Act **2009**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent. 10

**3 Principal Act amended**

This Act amends the Christ's College (Canterbury) Act 1910.

**4 Purpose**

The purpose of this Act is to amend the principal Act to authorise the governing body of Christ's College to apply property, in certain circumstances, to the benefit of the College even though the property is not applied for the purpose for which the property was given to, or vested in, the College. 15

**5 New section 5 substituted** 20

Section 5 is repealed and the following section substituted:

**“5 Property to be used only as originally intended**

“(1) This Act does not confer power to use property for purposes other than were intended by any disposition setting out the purposes for which the property was given to, or vested in, the College. 25

“(2) **Subsection (1)** applies subject to **subsections (3) to (5)**.

“(3) If the governing body is satisfied that 1 or more of the circumstances described in **subsection (4)** apply in relation to a disposition referred to in **subsection (1)**, the governing body may apply any of the property for the benefit of the College 30

- even though the property is not applied for the purpose for which it was given to, or vested in, the College.
- “(4) The circumstances are that—
- “(a) the purposes for which the property was given or vested have become (wholly or in part) redundant, uncertain as to application, or impractical to implement; or 5
  - “(b) the amount of the property given or vested is inadequate for the purposes for which the property was given or vested; or
  - “(c) the amount of the property given or vested is more than necessary for the purposes for which the property was given or vested. 10
- “(5) To avoid doubt, **subsections (2) to (4)** apply to a disposition of property whether made before or after the commencement of this Act. 15
- “(6) In this section,—
- “**disposition** includes a conveyance, transfer, grant, gift, or declaration of trust
  - “**property** includes—
    - “(a) money; and 20
    - “(b) income derived from property.”
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