

**Reprint
as at 30 January 2021**



**Masterton District Council (Montfort Trimble
Foundation) Act 2003**

Local Act 2003 No 5
Date of assent 10 December 2003
Commencement see section 2

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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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1 Title

This Act is the Masterton District Council (Montfort Trimble Foundation) Act 2003.

2 Commencement

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

3 Interpretation

In this Act, unless the context otherwise requires,—

Board means the Board of the Foundation

Council means the Masterton District Council

financial year means a period of 12 months ending with 30 June

Foundation means the Montfort Trimble Foundation established by section 4

Foundation district means the area that—

- (a) constituted the Masterton County as set out in Schedule 2 of the Notice Redefining Boundaries of the Borough of Masterton, the County of Masterton, and the Opaki Riding and Te Whiti Riding of the County of Masterton in Volume II of the *Gazette* 1931 (page 1461); and
- (b) is shown in the diagram in Schedule 2 as the Masterton County in 1940

Masterton District means the Masterton District as it was constituted on 1 November 1989 by clause 139 of the Local Government (Wellington Region) Reorganisation Order 1989

member means a member of the Board

ratepayer elector means a person who is qualified as a ratepayer elector under section 24 of the Local Electoral Act 2001

residential elector means a person who is qualified as a residential elector under section 23 of the Local Electoral Act 2001

triennial general election means a general election referred to in section 10(2) of the Local Electoral Act 2001

Trimble Forest means the forestry block of approximately 127 hectares which was purchased and developed by the Masterton County Council, for the purpose of public afforestation using income of the Trimble Trust, as increased or decreased or substituted from time to time

Trimble Trust means the afforestation trust established by the Will of Dr Montfort Trimble dated 15 February 1940.

Montfort Trimble Foundation

4 Montfort Trimble Foundation established

- (1) This section establishes the Montfort Trimble Foundation.
- (2) The Foundation is a body corporate with perpetual succession.

5 Objects of Foundation

- (1) The objects of the Foundation are to promote public afforestation by—
 - (a) the production and care of timber for economic purposes:
 - (b) the maintenance of forests:
 - (c) providing a supply of timber for public wants:
 - (d) assisting the Council to establish forests:
 - (e) providing for the conservation of native and commercial forests:
 - (f) amenity and protection planting and their maintenance.
- (2) This section is subject to section 7.

6 Powers of Foundation

- (1) In order for the Foundation to further its objects, the Foundation—
 - (a) has full capacity to carry out or undertake any related business or related activity, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), has full rights, powers, and privileges.
- (2) Subsection (1) applies subject to—

- (a) the provisions of this Act and any other enactment; and
- (b) the general law.

7 Distributions

- (1) This section applies if the Foundation makes distributions of income or capital or both that are solely in respect of objects that are outside of the Foundation district.
- (2) In any financial year, the amount of distributions made under subsection (1) must not exceed 20% of the total distributions of income or capital or both made by the Foundation.
- (3) A distribution made in respect of objects outside the Foundation district must be made—
 - (a) in respect of objects within the Masterton District; or
 - (b) for the benefit of residents and ratepayers of the Masterton District.

Board of Foundation

8 Board of Foundation

- (1) This section establishes the Board of the Foundation.
- (2) The Board consists of 7 members elected or appointed in accordance with sections 10 to 13.

9 Interim Board

- (1) As soon as practicable after this Act comes into force, the Council must appoint 6 members, and the New Zealand Guardian Trust Company Limited must appoint 1 member, to act as the interim Board.
- (2) At any time, the Council may remove any of the members which it has appointed under subsection (1), and the New Zealand Guardian Trust Company Limited may remove the member which it appointed under subsection (1), and appoint a replacement member or members as the case may be.
- (3) Unless sooner removed from office, the members appointed under this section hold office until the first elected members come into office as set out in section 11(2).
- (4) The interim Board has the same functions and powers as the Board.

10 Elected members

- (1) There must be 4 elected members.
- (2) The elected members must be elected by the residential electors and ratepayer electors of the Foundation district.
- (3) A person may stand for election as a member if he or she is qualified to be a candidate under section 25 of the Local Electoral Act 2001.

- (4) Subject to this Act, the electoral officer of the Council must conduct the election of members in accordance with the Local Electoral Act 2001.
- (5) The Foundation must pay the reasonable costs and expenses (except expenses of scrutineers and other expenses incurred by or on behalf of candidates) which the Council incurs in conducting any elections under this Act.

11 First election of members

- (1) The first election of members is to be conducted in conjunction with the triennial general election in October 2004.
- (2) The first elected members come into office immediately following the declaration of the result of the triennial general election in October 2004.
- (3) Two of the first elected members hold office until the declaration of the result of the next triennial general election in October 2007.
- (4) Two of the first elected members hold office until the declaration of the result of the triennial general election in October 2010.
- (5) The electoral officer must determine which of the first elected members will hold office under subsection (4) by the drawing of lots immediately after the declaration of the result of the triennial general election in October 2004.

12 Subsequent elections of members

- (1) After the first election of members in October 2004, the subsequent election of members must be conducted in conjunction with successive triennial general elections and 2 members must be elected at each election.
- (2) The members elected under this section—
 - (a) come into office immediately following the declaration of the result of the election; and
 - (b) hold office until the declaration of the result of the triennial general election 6 years after their election.

13 Appointed members

- (1) Three members must be appointed as follows:
 - (a) the Council must appoint 2 members; and
 - (b) the New Zealand Guardian Trust Company Limited must appoint 1 member.
- (2) The Council and the New Zealand Guardian Trust Company Limited must make their first appointments under this section as soon as practicable after the first elected members come into office as set out in section 11(2).
- (3) An appointed member holds office for a period of 3 years from the date of his or her appointment.
- (4) An appointed member may serve more than 1 term as a member.

- (5) At any time, the Council may remove any of its members appointed under subsection (1)(a), and the New Zealand Guardian Trust Company Limited may remove its member appointed under subsection (1)(b).
- (6) However, the Council and the New Zealand Guardian Trust Company Limited may remove a member only—
 - (a) because the member is unable to perform his or her duties adequately; or
 - (b) for neglect of duty or misconduct.

14 Resignation of members

- (1) A member may resign office by notice in writing addressed and delivered to the Chairperson of the Board.
- (2) The notice takes effect on the day on which it is delivered to the Chairperson of the Board.

15 Vacancy on Board

- (1) The office of a member becomes vacant, and the vacancy that is created is an extraordinary vacancy, if—
 - (a) a member dies; or
 - (b) a member resigns under section 14; or
 - (c) a member is absent without leave of the Board from 4 consecutive meetings of the Board; or
 - (d) in the case of an appointed member, the Council or the New Zealand Guardian Trust Company Limited has removed the member under section 13(5).
- (2) In the event of an extraordinary vacancy of an elected member, the extraordinary vacancy must be filled by the Board appointing a person who is qualified to be an elected member.
- (3) In the event of an extraordinary vacancy of an appointed member, the extraordinary vacancy must be filled in the same manner as that of the person whose office became vacant.
- (4) Appointments under subsections (2) and (3) are to be made as soon as practicable after the extraordinary vacancy arises.
- (5) A person who is appointed to fill an extraordinary vacancy holds office for the remainder of the term for which his or her predecessor was to hold office.

16 Function of Board

The Board has and may exercise all the functions, powers, and duties of the Foundation.

17 Powers of Board not affected by vacancies

The powers of the Board are not affected by a vacancy in the membership of the Board.

18 Right of member to apply to High Court for directions

A member may apply to the High Court for directions under section 133 of the Trusts Act 2019 as if the member were a trustee.

Section 18: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

19 Schedule 1 applies in relation to Board

The provisions of Schedule 1 apply in relation to the Board.

20 Members not personally liable

No member acting in good faith is personally liable for any default made by the Board or by another member in the course of the Foundation's operations.

21 Remuneration and allowances

A member of the Board is entitled to receive—

- (a) remuneration and other benefits at a rate and of a kind determined by the Minister of Local Government in accordance with the fees framework for members of statutory and other bodies; and
- (b) payment of reimbursing allowances or actual and reasonable expenses incurred in undertaking his or her duties as a member of the Board.

Miscellaneous provisions

22 Council to make distributions to Foundation

Without limiting its powers under law, the Council must make distributions to the Foundation from any net proceeds which the Council receives from the harvest of timber from the Trimble Forest.

23 New Zealand Guardian Trust may make distributions to Foundation

Without limiting its powers under law, the New Zealand Guardian Trust Company Limited may make distributions to the Foundation from the capital or income of the Trimble Trust.

24 Foundation not council-controlled organisation because Council appoints members of Board

The appointment of members of the Board by the Council under section 9 does not make the Foundation a council controlled organisation under the Local Government Act 2002.

25 Council may provide administrative services to Foundation

The Council may provide any administrative services to the Foundation as the Council thinks fit.

26 Public Audit Act 2001 amended

Amendment(s) incorporated in the Act(s).

Schedule 1

Conduct of business

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1 Chairperson of Board

- (1) The members may appoint one of the members to be the Chairperson of the Board.
- (2) On making the appointment, the members must decide on the period for which the Chairperson will hold office.
- (3) The Chairperson may be removed from office on the unanimous resolution of the other members.

2 Quorum

The quorum for a meeting of the Board is 4 members.

3 Meetings

- (1) The Chairperson must decide on the time and place of any meetings of the Board.
- (2) At least 7 days before a Board meeting, written notice must be given to all members of the date, time, and place of the meeting.
- (3) The Chairperson must preside at all Board meetings if he or she is present. If the Chairperson is absent, the members present must appoint one of them to preside at the meeting. The member presiding has the powers of the Chairperson for the purposes of the meeting.
- (4) All questions and matters arising at Board meetings must be decided by majority resolution of the members present and entitled to vote.
- (5) At a Board meeting, the Chairperson has a deliberative vote but, in the case of an equality of votes, does not have a casting vote.
- (6) A resolution in writing signed by all of the members is as effective as if it had been passed at a meeting. The resolution may consist of several like documents each signed by 1 or more of the members and may be sent by fax.

4 Committees

- (1) The Board may appoint and dissolve committees of the Board.
- (2) A committee may include among its membership, persons who are not members of the Board.
- (3) Subject to the provisions of this Act and to the terms of its appointment, a committee may regulate its own procedure.

5 Annual plan

- (1) For each financial year of the Foundation, the Board must prepare and adopt an annual plan for the Foundation.
- (2) The Board must adopt the annual plan before the beginning of the financial year to which it relates.
- (3) The annual plan must outline in particular terms for the coming financial year and in general terms for each of the following 2 financial years—
 - (a) the intended significant policies of the Foundation; and
 - (b) the nature and scope of the significant activities to be undertaken by the Foundation; and
 - (c) the performance targets and other measures by which the performance of the Foundation may be measured; and
 - (d) a budget for the coming financial year.

6 Annual report

- (1) Following the end of each financial year for the Foundation, the Board must prepare an annual report for presentation at the annual general meeting of the Foundation.
- (2) The annual report must—
 - (a) contain the financial statements, audited by the Auditor-General, of the Foundation for that financial year including—
 - (i) a statement of financial position; and
 - (ii) a statement of financial performance; and
 - (iii) a statement of cash flows; and
 - (iv) such other statements and information as may be required by law or may be necessary to fairly reflect the financial position of the Foundation, the resources available to it, and the financial results of its operations; and
 - (b) contain a report on the activities of the Foundation for that financial year; and
 - (c) assess the performance of the Foundation in that financial year against the policies, objectives, and targets adopted by the Foundation for that year in its annual plan; and
 - (d) contain the auditor's report on the financial statements and performance targets and other measures by which the performance of the Foundation in that financial year has been judged in relation to its objectives as set out in the Foundation's annual plan relating to that year.
- (3) The financial statements included in the annual report must be prepared in accordance with generally accepted accounting practice within the meaning of the Financial Reporting Act 2013.

Schedule 1 clause 6(3): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

7 Annual plan and annual report available on request

The Board must make available for inspection free of charge and for purchase at a reasonable cost copies of—

- (a) the annual plan prepared and adopted under clause 5; and
- (b) the annual report presented at the annual general meeting of the Foundation under clause 6.

8 Annual general meeting

- (1) In each calendar year, the Board must hold an annual general meeting of the Foundation before 30 November.
- (2) The Board must fix the time and place of the annual general meeting.
- (3) At the annual general meeting, the Board must consider—
 - (a) the annual report prepared under clause 6(1); and
 - (b) any other special business or general business that has been included in the notice given under subclause (4).
- (4) Despite clause 3(2), notice in writing of the business to be conducted at the annual general meeting must be given to all members at least 14 days before the meeting.
- (5) The Board must give public notice of the annual general meeting and the business to be conducted at the annual general meeting at least 14 days before the meeting.
- (6) The public is entitled to attend and speak at an annual general meeting but is not entitled to vote at the meeting.

9 Delegation of powers of Board

- (1) Subject to subclause (2), the Board may delegate any of the functions, powers, or duties of the Foundation to any of the following:
 - (a) an employee of the Foundation;
 - (b) a committee of the Board.
- (2) The Board must not delegate—
 - (a) the power to delegate; or
 - (b) the power to make distributions of income or capital.
- (3) The delegation must be in writing and may be made subject to any restrictions or conditions as the Board thinks fit.
- (4) A delegation is revocable in writing, and no delegation affects or prevents the Board from exercising any function, power, or duty under this Act.

10 Method of contracting

- (1) A contract or other enforceable obligation may be entered into by the Foundation as provided in this clause.
- (2) An obligation that, if entered into by an individual, is required to be by deed, may be entered into on behalf of the Foundation in writing, signed under the name of the Foundation by—
 - (a) 2 or more of the members; or
 - (b) 1 or more attorneys appointed by the Foundation under this clause.
- (3) An obligation that, if entered into by an individual, is required to be in writing, may be entered into on behalf of the Foundation in writing by a person acting under the express or implied authority of the Foundation.
- (4) An obligation that, if entered into by an individual, is not required to be in writing, may be entered into on behalf of the Foundation in writing or orally by a person acting under the express or implied authority of the Foundation.
- (5) The Foundation may, by an instrument in writing executed as a deed, appoint a person as its attorney, either generally or in relation to a specified matter.
- (6) An act of the attorney in accordance with the instrument binds the Foundation.
- (7) This clause applies to a contract or other obligation—
 - (a) whether or not that obligation was entered into in New Zealand; and
 - (b) whether or not the law governing that obligation is the law of New Zealand.

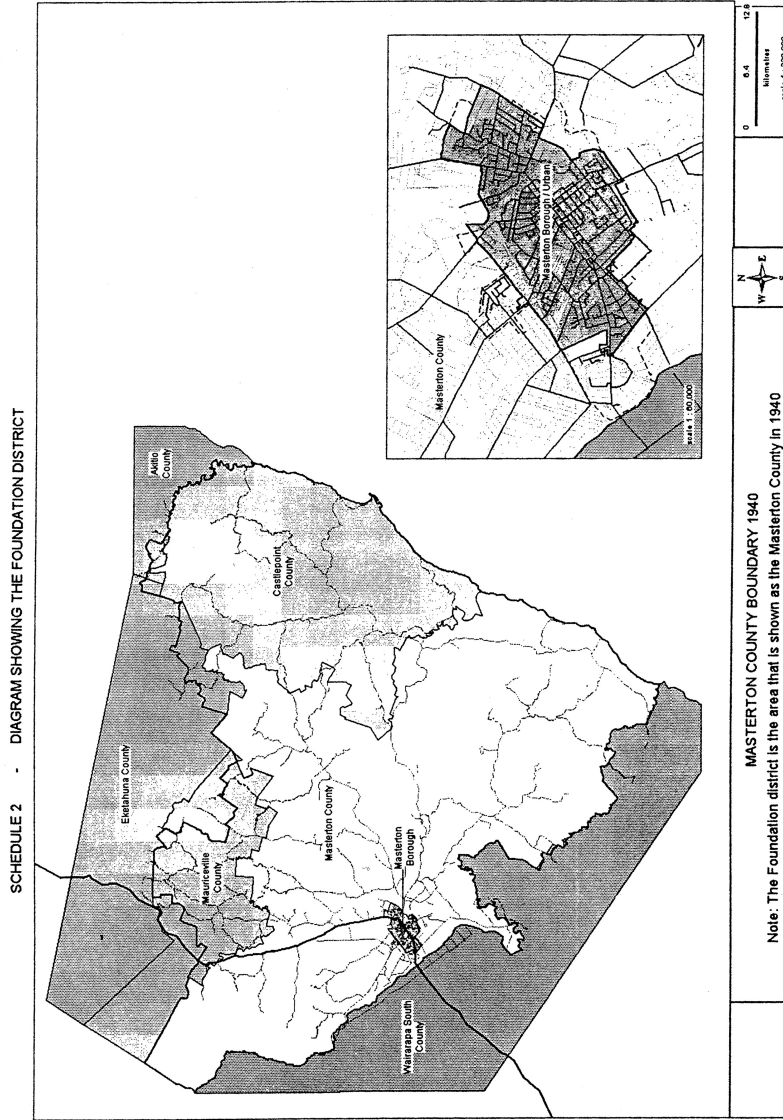
11 Procedure generally

Subject to the provisions of this Act, the Board may regulate its own procedure.

Schedule 2

Diagram showing the Foundation district

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Reprints notes

1 *General*

This is a reprint of the Masterton District Council (Montfort Trimble Foundation) Act 2003 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

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126