

Mr Donald

## MASTERTON TRUST LANDS

[LOCAL]

### ANALYSIS

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No. 106—1

Price 2s.

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<b>A BILL INTITULED</b>		
<b>An Act to consolidate and amend the laws relating to the management of certain trust lands in the Borough of Masterton and the Masterton Small Farm Settlement</b>		
BE IT ENACTED by the General Assembly of New Zealand 5 in Parliament assembled, and by the authority of the same, as follows:		
1. <b>Short Title</b> —This Act may be cited as the Masterton Trust Lands Act 1966.		
2. <b>Interpretation</b> —In this Act, unless the context otherwise 10 requires,—		
“Elector” means any person qualified to vote at any election of members under this Act:		
“Financial year” means a year commencing on the first day of April and ending on the succeeding thirty- 15 first day of March:		
“General Trust lands” means the lands mentioned in the <u>First Schedule</u> to this Act, together with all additional lands (whether within or beyond the Trust district) that may be hereafter acquired by the Trust 20 for the general purposes of this Act; and includes also all land (whether within or beyond the Trust district) that may be hereafter acquired by the Trust in substitution for lands theretofore included in the general Trust lands; and excludes all lands 25 theretofore included in the general Trust lands in substitution for which lands are so acquired:		
“Income”, in relation to any property of the Trust, includes all income derived in any previous year and not yet applied pursuant to the provisions of this Act: 30		
“Member” means a person who is duly confirmed, elected, or appointed by or pursuant to this Act as a member of the Trust, and is for the time being in office:		

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“General Trust lands” means the lands mentioned in the First Schedule to this Act, together with all additional lands (whether within or beyond the Trust district) that may be hereafter acquired by the Trust 20  
for the general purposes of this Act; and includes also all land (whether within or beyond the Trust district) that may be hereafter acquired by the Trust in substitution for lands theretofore included in the general Trust lands; and excludes all lands 25  
theretofore included in the general Trust lands in substitution for which lands are so acquired:

“Income”, in relation to any property of the Trust, includes all income derived in any previous year and not yet applied pursuant to the provisions of this Act: 30

“Member” means a person who is duly confirmed, elected, or appointed by or pursuant to this Act as a member of the Trust, and is for the time being in office:

“Minister” means the Minister of Internal Affairs:

“Public notice” means a notice published in some newspaper circulating in the Trust district; and “published”, “publication”, and “publicly notified” have corresponding meanings. A public notice setting forth the object, purport, or general effect of a document shall in any case be a sufficient publication of that document:

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“Residential qualification” has the meaning assigned to it by paragraph (c) of subsection (1) of section 29 of the Municipal Corporations Act 1954:

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“Scholarship lands” means the lands mentioned in the Second Schedule to this Act; and includes all lands (whether within or beyond the Trust district) that may be hereafter acquired by the Trust in substitution for lands theretofore included in the scholarship lands, and excludes all lands theretofore included in the scholarship lands in substitution for which lands are so acquired:

15

“Special resolution” means a resolution passed at a special meeting of the Trust. For the purposes of this definition, a special meeting is a meeting of which, not less than seven clear days before the time at which such meeting is to be held, there shall have been given to each member written notice, under the hand of the Secretary to the Trust, specifying the time and place at which the meeting is to be held and the business to be brought before the meeting:

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“Trust” means the corporation of the Masterton Trust Lands Trust constituted by this Act:

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“Trust district” means the Borough of Masterton from time to time, and the Masterton Small Farm Settlement.

30

*Constitution of Trust*

35 **3. Incorporation**—There is hereby established for the purposes of this Act a board of trustees, to be called “the Masterton Trust Lands Trust”, which shall be a body corporate, with perpetual succession and a common seal, and shall, for the purposes and subject to the provisions of  
40 this Act, be capable of purchasing or otherwise acquiring, holding, disposing of, and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

**4. Continuance of existing corporation**—The body corporate constituted under the name “the Masterton Trust Lands Trustees” by the Masterton Trust Lands Act 1950, as subsisting at the coming into force of this Act, shall be the same body corporate as is constituted by this Act, and shall retain (subject to the provisions of this Act) its property and liabilities and powers, and all existing contracts and engagements of such body corporate shall be enforceable by and against it, and all acts of authority lawfully done by such body corporate pursuant to the Masterton Trust Lands Act 1950, or any amendment thereof, shall enure as if done pursuant to this Act; and all references to the Masterton Trust Lands Trustees in any Act, or in any Proclamation or Order in Council, or in any agreement, deed, instrument, will or other document (whether dated before or after the commencement of this Act), shall, unless such construction shall be inconsistent with the context or with the provisions of this Act, be deemed to be references to the body corporate constituted by this Act.

**5. Constitution of Trust**—The Trust shall consist of eight members, who shall be elected in the manner hereinafter provided, and who (subject to the provisions of this Act) shall respectively hold office until retirement by rotation in the manner hereinafter provided.

**6. Term of Office**—(1) Every member shall come into office on his election.

(2) Except as otherwise provided in this Act, every member shall hold office for a term of six years, but (except as provided in section 10 of this Act) may from time to time be re-elected.

(3) With respect to the election of members to be held under subsection (1) of section 9 of this Act in the year nineteen hundred and sixty-eight the following provisions shall apply:

(a) Four members shall, unless any of them sooner vacates his office under section 11 of this Act, remain in office until the next succeeding triennial election of members in the year nineteen hundred and seventy-one:

(b) The four members so to remain in office shall be determined by agreement between the members no later than the thirty-first day of August, nineteen hundred and sixty-eight or, failing such agreement, shall be determined by lot no later than that day:

(c) The members other than the four so to remain in office shall retire, but (except as provided in section 10 of this Act) shall be eligible for re-election.

5 (4) Every member shall, unless he sooner vacates his office under section 11 of this Act, continue in office until his successor comes into office, notwithstanding that his term of office may have expired.

7. **Transitional provisions**—Every person immediately before the coming into operation of this Act holding office as  
10 a member of the body corporate constituted by the Masterton Trust Lands Act 1950 shall, unless he sooner vacates his office under section 11 of this Act, continue to hold office as a member of the body corporate constituted by this Act until he retires by rotation in the manner provided by section  
15 6 of this Act.

*Electors and Elections*

8. **Electors of Trust district**—(1) Every person shall be an elector of the Trust district who is entitled by virtue of a residential qualification, being a qualification in respect of  
20 an address within the Trust district, to vote at any election of members of the local authority of any district of which the whole or part is situated within the Trust district.

(2) Notwithstanding anything to the contrary in any other Act, where any person is enrolled or entitled to be enrolled  
25 on the roll of electors of any such local authority as aforesaid by virtue of another qualification, and that person would, but for that other qualification, be entitled by virtue of a residential qualification to be enrolled on that roll in respect of an address within the Trust district, it shall be the duty of  
30 the Clerk of the local authority to indicate on the roll the residential qualification of that person as well as that other qualification—

(a) If that person, being then enrolled by virtue of that other qualification, duly makes a claim for enrolment on the ground of possessing the residential qualification, unless to the knowledge of the Clerk any statement made by the applicant in his claim is untrue; or

40 (b) If that person, not being then enrolled by virtue of that other qualification, duly makes a claim for enrolment on the grounds of possessing the residential qualification and the other qualification, unless to the knowledge of the Clerk any statement made by the applicant in his claim is untrue; or

(c) If to the knowledge of the Clerk that person possesses the residential qualification.

(3) Every elector shall have one vote only at each election at which he is entitled to vote under this Act.

**9. Elections of Members—**(1) An election of four members shall be held on the day on which the triennial election of Councillors under the Municipal Corporations Act 1954 is held in the year nineteen hundred and sixty-eight. 5

(2) Thereafter a triennial election of four members shall be held on every day appointed for holding the triennial election of such Councillors. 10

(3) At every election held under this Act the Returning Officer for the Borough of Masterton shall be the Returning Officer for the Trust district.

(4) The rolls of electors for the districts which are situated wholly or partly within the Trust district shall be the rolls of electors for elections under this Act. 15

(5) It shall be the duty of the Clerk of the local authority of every district situated wholly or partly within the Trust district to indicate on the roll of electors for the district of that local authority, by appropriate words, abbreviations, or marks, the names of the persons entitled to vote at elections of members. 20

(6) The poll at every election under this Act shall be conducted within the district of each such local authority as aforesaid by the Returning Officer for the local authority on behalf of the Returning Officer for the Trust district. After ascertaining the total number of votes recorded in his district for each candidate, the Returning Officer for the local authority shall forthwith send particulars of the numbers to the Returning Officer for the Trust district, who shall make up the total number of votes received by each candidate and declare the result of the poll. 30

(7) The reasonable cost of any election that is not held simultaneously with the election of members of any such local authority, and the reasonable additional cost incurred by any such local authority in respect of any election under this Act that is held simultaneously with the election of members of the local authority (except in every case the expenses of scrutineers and other expenses incurred by or on behalf of candidates), shall be paid by the Trust. Any dispute arising as to the amount to be paid to any local authority under this subsection shall be determined by the Audit Office after such inquiry as it thinks fit, and the decision of the Audit Office in any such dispute shall be final. 45

(8) Subject to the provisions of this Act, the provisions of the Local Elections and Polls Act 1953 shall apply to every election under this Act.

*Disqualification and Vacancies*

- 5 **10. Disqualification of Members**—(1) The following persons shall be incapable of being elected to be or of being members:
- 10 (a) A person who is not an elector of the Trust district;  
 (b) A mentally defective person within the meaning of the Mental Health Act 1911;
- 15 (c) A bankrupt who has not obtained his order of discharge or whose order of discharge has been suspended for a term not yet expired or is subject to conditions not yet fulfilled;
- (d) A person convicted of any offence punishable by imprisonment, unless he has received a free pardon or has served his sentence or otherwise suffered the penalty imposed on him;
- 20 (e) A person holding any office or place of profit under or in the gift of the Trust;
- (f) A tenant or lessee of the Trust, and a person to whom the Trust is a tenant or lessee, other than a person who falls within this paragraph only in the capacity of a trustee or other representative capacity.
- 25 (2) If any person does any act as a member, being incapacitated under subsection (1) of this section, except paragraph (c) thereof, he shall be liable to a fine not exceeding fifty pounds.
- 30 (3) It shall be the duty of the Audit Office to institute proceedings for the recovery of any fine under this section, but nothing herein shall be so construed as to prevent those proceedings being taken by any other person.
- 11. Vacation of office by members**—The office of a member shall become vacant, and the vacancy shall be deemed to be
- 35 an extraordinary vacancy, if the member—
- (a) Dies; or
- (b) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Trust; or
- 40 (c) Is absent without the leave of the Trust from three consecutive ordinary meetings of the Trust; or
- (d) Becomes incapable of continuing to hold office under section 10 of this Act.

**12. Filling of extraordinary vacancies**—(1) In the event of an extraordinary vacancy in the office of a member occurring not less than six months before the date on which such member is due to retire from office pursuant to section 6 of this Act, the Trust shall, by resolution, appoint a person qualified to be elected a member to fill the vacancy. 5

(2) In the event of an extraordinary vacancy in the office of a member occurring less than six months before the date on which such member is due to retire from office pursuant to section 6 of this Act, the Trust may, by resolution, either appoint a person qualified to be elected a member to fill the vacancy, or determine that the vacancy shall not be filled. 10

(3) In the event of an extraordinary vacancy in the office of a member occurring before the triennial election of members in the year nineteen hundred and sixty-eight and thereby reducing the number of members to eight, the vacancy shall not be filled notwithstanding that the vacancy may occur more than six months before that triennial election is due to take place. 15

(4) Every person appointed by the Trust pursuant to this section shall for all purposes be deemed to have been elected to fill the vacancy. 20

(5) Any member appointed to fill any extraordinary vacancy shall hold office only for the unexpired portion of the term of office of his predecessor. 25

(6) Notwithstanding anything to the contrary in the Local Elections and Polls Act 1953, every resolution of the Trust under this section shall have effect according to its tenor.

#### *Ouster of Office*

**13. Ouster of office**—(1) Upon proof in the first instance, by affidavit or otherwise, that a member is, or has become, incapable under this Act of holding his office, the Magistrate's Court in the Trust district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same. 30 35

(2) If on the return of such summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this Act of holding the said office, the Court may adjudge such person to be ousted of the same, and such person shall be ousted of such office accordingly. 40

(3) In any such proceedings the Magistrate's Court may exercise all the powers and authorities that it may exercise in its ordinary jurisdiction in civil cases; and the procedure of such Court shall, so far as applicable, apply generally to proceedings had under this section. 45



(4) No matter in relation to a disputed election shall be heard by the Magistrate's Court under this section.

(5) No question that may be tried under this section shall be tried in the Supreme Court; and no proceedings in the  
5 Magistrate's Court hereunder shall be removable into the Supreme Court by certiorari or otherwise.

*Chairman and Deputy Chairman*

**14. Chairman of Trust**—(1) At its first meeting after every triennial election of members the Trust shall elect one of its  
10 members to be the Chairman of the Trust.

(2) During the election of a Chairman, the Secretary of the Trust shall preside at the meeting of the Trust. In any case of an equality of votes at any election of a Chairman the Secretary shall determine the election by lot in such  
15 manner as the Trust directs.

(3) The Chairman shall come into his office on his election as Chairman and shall, unless he sooner vacates his office, hold office until the election of his successor, but may from time to time be re-elected.

(4) The Chairman may resign his office by writing under his hand delivered to the Secretary of the Trust; and in such case or in the case of his ceasing from any cause to be a member of the Trust, his office shall become vacant, and the Secretary shall forthwith convene a meeting of the Trust  
20 for the election of another Chairman.

(5) The member holding office as Chairman of the Trust immediately before this Act came into force shall, unless he sooner vacates his office, continue to hold office as Chairman of the Trust until the election of his successor, but he  
30 may be re-elected.

**15. Deputy Chairman of Trust**—(1) The Trust may from time to time appoint from among its members a Deputy Chairman, who shall act as Chairman of the Trust during the temporary absence or incapacity of the Chairman.

(2) While so acting the Deputy Chairman may do all  
35 acts that the Chairman as such might do.

(3) The fact that the Deputy Chairman exercises any power, duty, or function of the Chairman shall be sufficient evidence of his authority so to do; and no person shall be  
40 concerned to inquire whether any occasion has arisen requiring or authorising him so to do, or be affected by notice that no such occasion has arisen.

*Proceedings of Trust*

**16. Meeting of Trust**—(1) Meetings of the Trust shall be held at such times and places as the Trust determines.

(2) At any meeting of the Trust four members shall form a quorum. 5

(3) The Chairman of the Trust shall preside at all meetings of the Trust at which he is present.

(4) At any meeting of the Trust the Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote. 10

**17. Special orders**—The power given by this Act to do anything by special order shall be exercised by the Trust only as follows:

(a) The resolution to do such thing shall be a special resolution: 15

(b) The resolution shall be confirmed at a subsequent meeting (either ordinary or special) held not sooner than the twenty-eighth day after the day of the special meeting and not later than the seventieth day after that special meeting: 20

(c) Public notice of the place and date fixed for the subsequent meeting, and of the purport of the special resolution, and calling for any electors who object to the resolution to state their objections in writing to the Trust not later than the day before the subsequent meeting, shall be given twice during the period of twenty-eight days immediately preceding the date of the subsequent meeting, with an interval of not less than fourteen days between the two notifications: 30

(d) Written notice of the time and place of the subsequent meeting shall be given to each member not less than one clear day before the subsequent meeting, which notice shall refer to the said special resolution:

(e) The notice directed to be given by paragraph (d) of this section shall suffice, even though the subsequent meeting may be a special meeting: 35

(f) Before confirming the special resolution the Trust shall consider all objections received pursuant to paragraph (c) of this section. 40

18. **Management**—Subject to the provisions of this Act, the Trust may from time to time make regulations for the conduct of business and keeping of minutes thereof, for regulating the management of the real and personal property of the Trust, and generally for giving effect to the provisions of this Act, and may from time to time add to, amend, and revoke such regulations or any of them, and may from time to time make additional or substituted regulations for the purposes aforesaid.

19. **Validity of proceedings**—No act or proceeding of the Trust or of any person acting as a member of the Trust, shall be invalidated in consequence of there being a vacancy in the membership of the Trust at the time of the act or proceeding, or of the subsequent discovery that there was some defect with regard to the election of any member of the Trust or of any person so acting or that he was or had become disqualified.

*Officers*

20. **Trust may appoint officers and servants**—(1) The Trust may from time to time appoint or remove a Secretary and such other officers as the Trust shall think necessary, and may, out of the revenues of the Trust, pay to such persons such salaries, allowances, remunerations, and retainers in respect of their services as shall be thought fit. All officers holding office at the commencement of this Act shall continue in office subject to the provisions of this Act.

(2) Before any officer entrusted by the Trust with the custody or control of moneys by virtue of his office enters on the duties of his office, the Trust shall take sufficient security from him for the faithful execution of those duties.

21. **Superannuation and retirement gratuities**—(1) The Trust is deemed to be a local authority for the purposes of the National Provident Fund Act 1950.

(2) The Trust is deemed to be a local authority for the purposes of section 6 of the Finance Act (No. 2) 1941.

*Trusts*

22. **Vesting of lands**—All property, both real and personal, heretofore vested in the Trust, and in particular the lands mentioned in the First and Second Schedules to this Act, shall continue so vested, subject to all encumbrances, contracts, and equities affecting the same respectively at the

coming into operation of this Act, and subject to the trusts in this Act declared concerning the same respectively.

**23. Trusts on which lands to be held**—(1) Subject to the express provisions of this Act, the Trust shall hold, and shall be deemed always to have held, the general Trust lands and the scholarship lands for educational purposes and for purposes of public utility in the Trust district, and the promotion and assistance of such purposes; and, in particular (but without restricting the generality of the purposes aforesaid)—

- (a) For the purposes of assisting educational establishments and educational activities in the Trust district;
- (b) For the purposes of assisting libraries in the Trust district;
- (c) For the purposes of the promotion, advancement, or encouragement in or for the Trust district of education, science, literature, art, physical welfare, and other cultural purposes;
- (d) For the purposes of promoting and fostering in the Trust district, or among persons who are, or at some time have been resident within the Trust district, education generally, and the promotion, advancement, encouragement, or imparting of knowledge, proficiency, or skill in education, science, literature, art, technical subjects, physical welfare, and other cultural purposes.

(2) For the purposes of this section “assisting” shall be deemed to include “establishing”.

**24. Application of income from general Trust lands**—The Trust may, in every financial year, apply its income from the general Trust lands, in such manner as the Trust shall from time to time decide, to all or any of the following purposes:

- (a) In paying and satisfying all the cost and expense of the conduct and management of the business and affairs of the Trust and in reimbursing to members all travelling and other expenses incurred by them in the course of attending to the business and affairs of the Trust, and in paying and satisfying the cost and expense of conducting elections and polls under this Act, and generally the cost and expense of the execution of the trusts and powers of this Act;
- (b) For any or all of the purposes mentioned in section 23 of this Act:

- 5 (c) For the purpose of founding and endowing scholarships and bursaries tenable at educational establishments in the Trust district, irrespective of the ordinary places of residence of the students to whom such scholarships or bursaries are awarded, or tenable beyond the district by students who are, or have at some time been, resident within the district:
- 10 (d) For the purpose of making to students who either are, or at some time have been, resident within the Trust district such grants as the Trust shall think fit for the purpose of assisting them in their post-primary education, or in the study within or beyond the Trust district, and in New Zealand or elsewhere, in arts, literature, sciences, and technical subjects (including, but without restricting the generality of the foregoing provisions, aeronautics, aerostatics, and aerodynamics, both practical and theoretical):
- 15 (e) For the purpose of erecting, or assisting in erecting, on lands within the Trust district (whether owned by the Trust or not) and on lands elsewhere owned by the Trust, buildings and other erections designed for any of the purposes aforesaid, or designed for use in connection with or incidental to any such purposes:
- 20 (f) For the purpose of improving, maintaining, and keeping in proper order and condition any real or personal property of the Trust, and any real or personal property in the Trust district (whether or not the property of the Trust) used, or designed for use, for or in connection with any of the purposes mentioned in this section:
- 25 (g) For the purpose of maintaining and improving the earning-capacity, or the use for any of the purposes aforesaid, of any real or personal property of the Trust, or of rendering any such property more suitable for the purpose of producing revenue, and in particular, by the erection of buildings for residential, or commercial, industrial, or other business purposes, and the addition of improvements and amenities:
- 30 (h) For the purpose of forming, constructing kerbing, and paving streets, roads, service lanes, and ways on lands dedicated or transferred for those purposes by the Trust pursuant to section 37 of this Act, or on any lands of the Trust.
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**25. Application of income from scholarship lands**—The Trust may, in every financial year, apply its income from the scholarships lands, in such manner as the Trust shall from time to time decide, for all or any of the purposes mentioned in paragraphs (c) and (d) of section 24 of this Act. 5

*Powers*

**26. Leasing powers**—The Trust shall have power to grant leases and tenancies of the general Trust lands and the scholarship lands and any part or parts of the same.

**27. Public Bodies' Leases Act to apply**—(1) Every power of granting leases or tenancies by this Act conferred on the Trust shall confer upon the Trust power to grant any such lease or tenancy— 10

- (a) On any terms authorised by the Public Bodies' Leases Act 1908, and for that purpose the Trust is by this Act declared to be a leasing authority within the meaning and for the purposes of the Public Bodies' Leases Act 1908: 15

Provided that sections 8 and 10, and paragraph (d) of subsection one of section 12 of the last-mentioned Act shall not apply to the Trust: 20

- (b) So that the rent during the term of the lease or tenancy or any renewed term of the lease or tenancy need not be uniform for the whole term or renewed term, anything to the contrary in the Public Bodies' Leases Act 1908 notwithstanding: 25
- (c) Containing a covenant on the part of the Trust to pay compensation to the lessee or tenant for his improvements.

(2) Notwithstanding the provisions of the Public Bodies' Leases Act 1908, the Trust may, in determining the rent for the renewed term (or for the period of the renewed term for which the rent is then being determined, as the case may be) of a lease granted pursuant to the provisions of paragraph (e) or paragraph (g) or paragraph (h) of section 5 of that Act, so determine such rent by agreement with lessee, in lieu of determining such rent by valuation in accordance with the provisions of the First Schedule to that Act. 30 35

28. **Power to grant easements**—The Trust may from time to time grant any easements in, upon, through, over, or under the general Trust lands or the scholarship lands, or any part or parts thereof, subject to such conditions, and upon such  
5 consideration, and subject to the payment of such rent (if any) as the Trust shall think fit.

29. **Powers of acquisition**—(1) The Trust shall have power from time to time to acquire, by purchase, by the acceptance of gifts or devises, or otherwise, additional lands for addition  
10 to the general Trust lands, and all lands so acquired shall thereafter be deemed to be included in the general Trust lands for the purposes of this Act.

(2) No money shall be expended pursuant to the powers conferred by this section except out of the revenue of the  
15 general Trust lands, or out of a fund specially created for the purpose, or out of a general reserve established pursuant to this Act.

(3) No power conferred by this section shall be exercised except by or in pursuance of a special resolution.

30. **Power to accept trusteeships**—The Trust shall be at liberty from time to time to accept trusteeships for trusts and purposes not inconsistent with the general purposes of this Act and for such purposes to permit to be or become vested  
25 in the Trust any real or personal property to be held by the Trust upon and subject to the trusts imposed in respect thereof not being trusts inconsistent with the general purposes of this Act.

31. **Powers in relation to publications**—(1) The Trust may prepare and publish books, handbooks, abstracts, and other  
30 publications containing information and matters of interest relative to the history, administration, and affairs of the Trust, and prepare and disseminate information that is designed to educate and instruct the public concerning the activities of the Trust.

(2) The Trust may prepare and publish, or may assist in, or contribute towards the cost of the preparation and publica-  
35 tion of books, handbooks, abstracts, or other publications containing information and matters of interest relative to the history, administration, activities, and affairs of the Trust district or of the district surrounding the Trust district, and  
40 generally may prepare and disseminate information that is designed to educate and instruct the public within the Trust district concerning the administration, activities, and affairs

of the Trust district and the district surrounding the Trust district or that has for its object the advancement or development of the Trust district.

**32. Power to set aside fund out of income of scholarship lands for improvements—**(1) The Trust may from time to time out of its income from the scholarship lands, create, maintain, and add to a fund for the improvement of the scholarship lands or for the repair, renewal, replacement, or improvement of any buildings or other property of the Trust affixed or situate thereon, or appertaining thereto, or for the purpose of purchasing, acquiring, erecting, or constructing additional property of the classes for which the fund is so established. 5 10

(2) Except as provided in subsection (3) of this section, no part of the fund established pursuant to this section shall be used except for purposes mentioned in subsection (1) of this section. 15

(3) Every part of the fund so established that shall not be required for the purpose for which the fund was established may be applied for all or any of the purposes mentioned in paragraphs (c) and (d) of section 24 of this Act. 20

**33. Power to set aside fund out of general income for general purposes—**The Trust may from time to time, out of the income from the general Trust lands, create, maintain, and add to a fund or funds for any one or more of the purposes of the Trust. 25

**34. Investment of money not immediately required for use—**The Trust may from time to time invest any fund established pursuant to section 32 or section 33 of this Act, or any part or parts of any such fund, and all money representing income of the Trust from time to time remaining unapplied pending the application thereof in accordance with the trusts and purposes of this Act, in the manner following, that is to say: 30

- (a) In New Zealand Government securities; or
- (b) On deposit in any bank lawfully carrying on the business of banking in New Zealand, or in the Post Office Savings Bank or in the National Savings Account; or 35
- (c) In any other form of investment for the time being authorised by law for the investment of trust funds: 40

and the income from such investments shall be credited to the fund to which the investments belong.



*Restrictions of Alienation of Lands*

**35. Restrictions on alienation of lands**—Save as in this Act expressly authorised, the Trust shall have no power of alienation of the general Trust lands, or the scholarship lands,  
5 or any part thereof, or any interest therein.

**36. Alienation permitted for boundary adjustments**—

(1) Notwithstanding anything to the contrary in section 35 of this Act, the Trust shall have power from time to time, with or without requiring any payment or other consideration,  
10 to sell or otherwise dispose of any part or parts of the general Trust lands or the scholarship lands for the purpose of improving, adjusting, or straightening the boundary or boundaries between land owned by the Trust and other land.

(2) Any money received by way of consideration for any  
15 sale or other disposal as in this section mentioned shall be deemed to be income of the Trust:

Provided that where any such money is received in respect of the sale or disposal of part of the scholarship lands such money shall constitute income derived from the scholarship  
20 lands.

(3) No power conferred by this section shall be exercised except by or in pursuance of a special order.

**37. Alienation permitted for dedication**—(1) Notwithstanding anything to the contrary in section 35 of this Act,  
25 the Trust shall have power from time to time, with or without requiring any payment or other consideration, to dedicate and transfer portions of the general Trust lands and the scholarship lands for the purpose of widening any streets, roads, access-ways, or service-lanes:

30 Provided that no such dedication shall be made so as to widen any street or road by a greater width than thirty-three feet.

(2) The Trust shall have power from time to time, with or without requiring any payment or other consideration, to  
35 dedicate and transfer portions of the general Trust lands and the scholarship lands for the purpose of making new roads, streets, access-ways, or service-lanes; or extensions of existing roads, streets, access-ways, or service-lanes; and in particular (but without affecting the generality of the powers by this  
40 subsection conferred) for the purpose of improving, or using to better advantage, any real or personal property of the Trust.

(3) No money shall be expended in the exercise of any power conferred by this section except out of the revenue of the general Trust lands, or out of a fund specially created for the purpose, or out of a general reserve established pursuant to this Act. 5

(4) Money received by way of consideration for the dedication or transfer, as in this section mentioned, of any part of the general Trust lands shall be deemed to be income derived from the general Trust lands; and money received by way of consideration for the dedication or transfer, as in this section mentioned, of any part of the scholarship lands shall be deemed to be income derived from the scholarship lands. 10

(5) No power conferred by this section shall be exercised except by or in pursuance of a special order. 15

**38. Alienation permitted in certain cases with consent of Minister—**(1) Notwithstanding anything to the contrary in section 35 of this Act, the Trust shall have power with the prior consent in writing of the Minister —

(a) To sell any part or parts of the general Trust lands or the scholarship lands in any case where the Trust has resolved that the further development of such part or parts is not in the interests of the Trust: 20

(b) To exchange any part or parts of the general Trust lands or the scholarship lands for other land or lands in any case where the Trust has resolved that such exchange is in the interests of the Trust, and in respect of any such exchange to give or receive any money for equality of exchange. 25

(2) The Minister in giving his consent to any such sale or exchange may impose such conditions as he shall think fit, whether in respect of the method of sale, the reserve price in respect of such sale, or otherwise howsoever. 30

(3) Money received by the Trust from the sale pursuant to this section of any part or parts of the general Trust lands or the scholarship lands shall be applied by the Trust for or towards the purchase of other land or lands, and until so applied shall be held by the Trust in a special reserve account for that purpose. 35

(4) Money received by the Trust for equality of exchange pursuant to this section shall be applied by the Trust either for or towards the purchase of other land or lands, or with the prior consent in writing of the Minister for or towards the 40

development or improvement of the general Trust lands or the scholarship lands, and until so applied shall be held by the Trust in a special reserve account for that purpose:

5 Provided that, except with the prior consent in writing of the Minister, money received by the Trust for equality of exchange of any part or parts of the scholarship lands shall not be applied for or towards the development or improvement of the general Trust lands.

10 (5) Land acquired by the Trust in exchange for any part or parts of the general Trust lands shall be deemed to form part of the general Trust lands, and land acquired by the Trust in exchange for any part or parts of the scholarship lands shall be deemed to form part of the scholarship lands. In any case where part of the general Trust lands and part of  
15 the scholarship lands are exchanged for one parcel of land, such parcel of land shall be deemed to form part of the general Trust lands.

20 (6) Land purchased by the Trust with money received from the sale or exchange pursuant to this section of part or parts of the general Trust lands shall be deemed to form part of the general Trust lands, and land purchased by the Trust with money received from the sale or exchange pursuant to this section of part or parts of the scholarship lands shall be deemed to form part of the scholarship lands. In any  
25 case where land purchased by the Trust is financed only in part from money received from the sale or exchange of part or parts of the general Trust lands or the scholarship lands, the land so purchased shall be deemed to form part of the general Trust lands.

30 (7) No power conferred by this section shall be exercised except by or in pursuance of a special order.

**39. Alienation of personal property and improvements—**

35 (1) Notwithstanding anything to the contrary in section 35 of this Act or elsewhere in this Act contained, the Trust shall have power to sell or otherwise dispose of personal property of the Trust, and to sell for removal, or otherwise to dispose of, buildings, erections, and improvements, the property of the Trust, standing or being upon the general Trust lands or the scholarship lands or any part thereof, whether affixed to the  
40 freehold or not.

(2) Money received by way of consideration for any sale or other disposal as in this section mentioned shall be deemed to be income of the Trust:

Provided that where such money is received in respect of the sale or disposal of property affixed to the freehold of the scholarship lands or of any part thereof, such money shall constitute income derived from the scholarship lands.

*Borrowing Powers*

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**40. Power to borrow on overdraft**—The Trust may from time to time borrow money from its bankers by way of overdraft:

Provided that the total amount so borrowed shall not at any time in any financial year exceed half of the gross rental income of the Trust for the immediately preceding financial year. 10

**41. Power to borrow with consent of Minister of Finance**—

(1) In addition to the power conferred by section 40 of this Act, the Trust shall have power, with the consent of the Minister of Finance and upon and subject to such conditions as that Minister thinks fit, to borrow money for any of the purposes of the Trust. 15

(2) For the purpose of securing the repayment of money so borrowed, and the interest thereon, the Trust may, with the consent of the Minister of Finance and upon and subject to such conditions as that Minister thinks fit, appropriate and pledge as security its revenues or any part thereof, or mortgage or charge any of its real or personal property. 20

(3) The Trust shall not be deemed to be a local authority within the meaning of the Local Authorities Loans Act 1956. 25

*General*

**42. Money to be paid into bank**—(1) All money belonging to the Trust shall, within seven days after it has been received by the proper officer of the Trust, be paid into the account of the Trust at such bank as the Trust from time to time appoints. 30

(2) No money shall be withdrawn from the bank except by authority of the Trust and by cheque signed and countersigned by such person or persons as the Trust from time to time appoints for that purpose. 35

**43. Accounts**—(1) The Trust shall keep such accounts and keep them in such manner as may be prescribed by the Audit Office, but so always that—

(a) A General Account shall be kept and credited with all money not required by this Act to be carried to any other account, and debited with expenditure that 40

is not required by or under this Act, or any Act to be charged or that is not otherwise properly chargeable against any other account; and

5 (b) Separate accounts shall be kept and credited with all money raised or levied for, or appropriated or allocated to, or held in trust or received, for any special purpose, and debited with expenditure properly chargeable against those accounts; and

(c) A Profit and Loss Account shall be kept.

10 (2) The decision of the Audit Office as to whether or not any expenditure is properly chargeable against any such account as aforesaid shall be final.

**44. Annual statements—**(1) As soon as practicable after the end of every financial year the Trust shall cause to be prepared  
15 a statement of the assets and liabilities of the Trust as at the end of that financial year, together with—

(a) A statement of income and expenditure showing the financial transactions for that financial year;

20 (b) A statement of the public debt of the Trust, showing the total debt outstanding under the head of each loan raised, and the sinking-fund (if any) in the bank or invested to provide for the repayment of each loan:

25 (c) A statement of the reserves and other real property belonging to the Trust, showing the terms, conditions, and rents for which any parts thereof are let on lease or otherwise, and the amounts of the rents in arrear in each case.

(2) The statements referred to in subsection (1) of this  
30 section shall be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act 1953 in respect of public money and the audit of local authorities' accounts.

(3) The Audit Office shall return the said statements to  
35 the Trust as soon as possible, with a certificate and report written and signed thereon. The said statements, bearing the certificate and report, shall thereupon be printed, and a copy thereof as so printed shall be deposited in the office of the Trust, available for inspection by any elector during ordinary  
40 office hours, free of charge, until the holding of the meeting of electors mentioned in section 45 of this Act. The Trust shall furnish a copy of the said statements, as so printed, to any elector requiring the same. Public notice shall be given that the said statements have been audited and printed, and are  
45 available as aforesaid.

**45. Annual meeting**—For the purpose of receiving the annual report and statements of account of the Trust, a meeting of electors shall be held annually at a place to be appointed by the Trust, and on a day to be appointed by the Trust, being not later in any year than the forty-second day after the receipt by the Trust from the Audit Office of the said statements of account, of which meeting and of the time and place appointed for holding the same, not less than seven clear days' public notice shall be given. At such meeting the Chairman for the time being of the Trust or, in his absence, the Deputy Chairman, shall preside. At such meeting the aforesaid annual report and statements of account for the preceding financial year shall be submitted. 5 10

**46. Unauthorised expenditure**—The Trust may in every financial year expend out of the general fund of the Trust for purposes not authorised by any law for the time being in force any sum or sums not exceeding in the aggregate one per cent of the gross rentals derived during that financial year from the general Trust lands. 15

**47. Remuneration of Chairman and members of Trust**— 20  
 (1) The Trust may pay to the Chairman such annual allowance not exceeding three hundred pounds as may from time to time be fixed by the Trust; but no alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being. 25  
 (2) The Trust may pay to each member of the Trust remuneration at the rate of thirty shillings in respect of each meeting of the Trust or of any committee of the Trust attended by him:  
 Provided that the total amount that may be paid under this subsection to any member in any financial year shall not exceed the sum of seventy-eight pounds. 30  
 (3) The Chairman may receive an allowance or remuneration under either subsection (1) or subsection (2) of this section but he may not receive it under both subsections. 35  
 (4) For the purposes of this section a person re-elected Chairman shall be deemed a new Chairman.  
 (5) The receipt of an allowance or remuneration under this section shall not constitute a cause of disqualification from office under section 10 of this Act. 40

**48. Indemnity of members of Trust**—No member shall be personally liable for any act done or omitted by the Trust, or by any member thereof, in good faith in the course of the operations of the Trust; or be answerable for the act of any  
5 other member; or be answerable for any loss that may arise by reason of any money of the Trust being deposited in any bank, or in the hands of any agent or servant of the Trust, or for any loss in the execution of any of the trusts or powers declared in this Act, unless the same happens through his own  
10 wilful neglect or default.

**49. Repeals and savings and consequential amendments—**

(1) The Masterton Trust Lands Act 1950 is hereby repealed; and with respect to that repeal the following provisions shall apply, but without limiting or affecting any specific saving  
15 provision herein contained:

- (a) All members in office at the commencement of this Act shall remain in office until their respective successors are elected or appointed under this Act and come into office.
- 20 (b) All Proclamations, Orders in Council, regulations, offices, appointments, resolutions, agreements, leases, licences, lists, rolls, records, documents, and generally all acts of authority that originated under the Masterton Trust Lands Act 1950 and are subsisting or in  
25 force at the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated.
- 30 (c) All matters and proceedings commenced under the Masterton Trust Lands Act 1950, and pending or in progress at the coming into operation of this Act, may be continued, completed, and enforced under this Act; and, in particular, all rights of  
35 borrowing accrued under that Act and not fully exhausted shall continue and may be exercised as though that Act had not been repealed.

(2) Every reference to the Trust under the style of “The Masterton Trust Lands Trustees” in any Act, regulation,  
40 order, or by-law, or in any agreement, deed, instrument, certificate of title, lease, licence, application, notice, or document whatsoever, shall hereafter be read as a reference to the Trust under the style of “The Masterton Trust Lands Trust”.

(3) The District Land Registrar for Wellington shall, without further authority than this subsection, upon the request of the Trust amend the certificates of title of the general Trust lands and the scholarship lands to show the name of the Trust as "the Masterton Trust Lands Trust". 5

(4) Notwithstanding anything in this section or elsewhere in this Act contained, section 29 of the Masterton Trust Lands Act 1889 shall remain in full force and effect.

(5) Subsections (4) and (5) of the Local Legislation Act 1952 are hereby repealed. 10

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## SCHEDULES

## FIRST SCHEDULE

## GENERAL TRUST LANDS

Area			Reference to Certificate of Title, Wellington Registry		Description
A.	R.	P.	Volume	Folio	
0	0	32·7	192	27	Thirty-two and seven-tenth perches, more or less, being part of Section 2, Town of Masterton and being all the land included in the said certificate of title.
1	0	0·31	439	93	One acre and thirty-one one-hundredths of a perch, more or less, situate in the Borough of Masterton being part Section 72, Town of Masterton, being part Block B, Masterton Small Farm Settlement, and being also Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 on Deposited Plan No. 10490 and the parts marked "Right of Way" on the said Deposited Plan, and being all the land in the said certificate of title.
3	3	28·08	515	261	Three acres three roods twenty-eight and eight one-hundredths perches, more or less, situate in the Borough of Masterton, being part of Section 6, Masterton Small Farm Settlement, and being also Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 on Deposited Plan 10641, Lot 1 on Deposited Plan 21624, and part Lots 27 and 29 on Deposited Plan No. 255, and being all the land in the said certificate of title.
5	0	15·3	545	195	Five acres and fifteen and three-tenths perches, more or less, situate in the Borough of Masterton, being part Section 28, Masterton Small Farm Settlement, and being also part of Lots 2 and 4 on Deeds Plan No. 137, and being all the land in the said certificate of title.
0	2	0·05	660	86	Two roods and five one-hundredths of a perch, more or less, situate in the Borough of Masterton, being part of Section 84, Town of Masterton, and being Lot 1 on Deposited Plan 10488, and being all the land in the said certificate of title.

*Masterton Trust Lands*FIRST SCHEDULE—*continued*GENERAL TRUST LANDS—*continued*

Area			Reference to Certificate of Title, Wellington Registry		Description
A.	R.	P.	Volume	Folio	
1	2	13·24	660	87	One acre two roods thirteen and twenty-four one-hundredths perches, more or less, situate in the Borough of Masterton, being part of Section 87, Town of Masterton, and part of Block "B" of the Masterton Small Farm Settlement, and being also Lot 2 on Deposited Plan 10488, and Lots 1, 2, and 3 on Deposited Plan 13089, and being all the land in the said certificate of title.
1	0	29·6	660	88	One acre and twenty nine and six-tenths perches, more or less, situate in the Borough of Masterton, being part of Section 121 of the Town of Masterton and accretion, and being also Lots 4 and 5 on Deposited Plan 10488, and Lots 4 and 5 on Deposited Plan 13089, and being all the land in the said certificate of title.
0	1	30·72	660	89	One rood thirty and seventy-two one-hundredths perches, more or less, situate in the Borough of Masterton, being part Section 85, Town of Masterton, and being also part of Lot 7 and all Lot 8 on Deposited Plan 10488, and being the balance of the land in the said certificate of title.
0	2	0·36	660	91	Two roods and thirty-six one-hundredths of a perch, more or less, situate in the Borough of Masterton, being part of Section 119 of the Town of Masterton, and being also Lot 5 on Deposited Plan 10483, and being all the land in the said certificate of title.
0	2	35·37	660	92	Two roods thirty-five and thirty-seven one-hundredths perches, more or less, situate in the Borough of Masterton, being part of Section 120 of the Town of Masterton, and being also Lots 1, 2, 3, and 4 on Deposited Plan 10483, and being all the land in the said certificate of title.

FIRST SCHEDULE—*continued*GENERAL TRUST LANDS—*continued*

Area			Reference to Certificate of Title, Wellington Registry		Description
A.	R.	P.	Volume	Folio	
0	3	38·29	660	93	Three roods thirty-eight and twenty-nine one-hundredths perches, more or less, situate in the Borough of Masterton, being part of Sections 69 and 70 of the Town of Masterton, part of Block "B" of the Masterton Small Farm Settlement, part of Section 43 of the Manaia Block, and part of the Old Stream Bed, and being also Lot 2 and part of Lot 1 on Deposited Plan 10486, and being part of the land in the said certificate of title.
0	2	0·16	660	94	Two roods and sixteen one-hundredths of a perch, more or less, being situate in the Borough of Masterton, being part of Section 102 of the Town of Masterton, and being also Lots 1, 2, 3, and 4 on Deposited Plan 16241, and being all the land in the said certificate of title.
0	1	39·9	660	95	One rood thirty-nine and nine-tenths perches, more or less, situate in the Borough of Masterton, being part of Section 103 of the Town of Masterton, and being also part of the land on Deposited Plan 10487, and being all the land in the said certificate of title.
2	3	19·94	660	96	Two acres three roods nineteen and ninety-four one-hundredths perches, more or less, situate in the Borough of Masterton, being part of Sections 56, 58, and 60 of the Town of Masterton, and being also Lots 1 and 2 on Deposited Plan 10484, and being all the land in the said certificate of title.
1	0	23·31	660	98	One acre and twenty-three and thirty-one one-hundredths perches, more or less, situate in the Borough of Masterton, being part of Sections 88 and 89 of the Town of Masterton, and being also Lots 8, 9, 10, 11, 12, 13, and 14 on Deposited Plan 10491, and being all the land in the said certificate of title.

*Masterton Trust Lands*FIRST SCHEDULE—*continued*GENERAL TRUST LANDS—*continued*

Area			Reference to Certificate of Title, Wellington Registry		Description
A.	R.	P.	Volume	Folio	
1	0	0·21	664	5	One acre and twenty-one one-hundredths of a perch, more or less, situate in the Borough of Masterton, being Section 43 of the Town of Masterton, being part Block "B", Masterton Small Farm Settlement, and being also Lots 2, 3, and 4 of Lot C on Deposited Plan 1151, and Lots 1 and 2 on Deposited Plan 10489, and being all the land in the said certificate of title.
0	3	35·06	A3	908	Three roods thirty-five and six one-hundredths perches, more or less, situate in the Borough of Masterton, being part of Section 71 of the Town of Masterton, and being also Lots 1, 2, 3, 7, and part of Lots 4, 5, and 6, and the part marked "Right of Way" on Deposited Plan 10491, and being all the land in the said certificate of title.
2	3	25·3	C2	841	Two acres three roods twenty-five and three-tenths perches, more or less, situate in the Borough of Masterton, being sections 44, 46, and 48, Town of Masterton, and being also Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of "Lot B" on Deposited Plan No. 1151, and being all the land in the said certificate of title.
2	3	35·68	D1	497	Two acres three roods thirty-five and sixty-eight one-hundredths perches, more or less, situate in the Borough of Masterton, being Sections 53 and 55, and part Sections 49 and 51, Town of Masterton, and being also Lots 1, 2, 3, and 4, Block A on Deposited Plan 1151, Lots 1 and 2 on Deposited Plan 16921, and Lots 1, 2, 3, and 7 on Deposited Plan 23982, and being all the land in the said certificate of title.
0	2	6·08	D1	856	Two roods six and eight one-hundredths perches, more or less, situate in the Borough of Masterton, being part Sections 49 and 51, Town of Masterton, and being also Lots 4 and 5 on Deposited Plan 23982, and being all the land in the said certificate of title.

FIRST SCHEDULE—*continued*

GENERAL TRUST LANDS—*continued*

Area			Reference to Certificate of Title, Wellington Registry		Description
A.	R.	P.	Volume	Folio	
43	0	25·41	D2	826	Forty three acres and twenty-five and forty-one one-hundredths perches, more or less, situate in the Borough of Masterton, being part Sections 29 and 33, Masterton Small Farm Settlement, and being also Lots 5, 6, 7, and 8 on Deposited Plan 7702, Lot 1 on Deposited Plan 25355, and part of the land in Deposited Plan 10482, and being all the land in the said certificate of title.

SECOND SCHEDULE

SCHOLARSHIP LANDS

Area			Reference to Certificate of Title, Wellington Registry		Description
A.	R.	P.	Volume	Folio	
2	3	38·37	664	4	Two acres three roods thirty-eight and thirty-seven one-hundredths perches, more or less, situate in the Borough of Masterton, being Section 42 and parts of Sections 106 and 111 of the Town of Masterton, being part of Block "B" of the Masterton Small Farm Settlement, and being also the land on Deposited Plan 10485, Lot 3 on Deposited Plan 10489, and Lots 1, 2, and 3, and the part marked "Right of Way" on Deposited Plan 10582, and being all the land in the said certificate of title.