

# NEW ZEALAND RAILWAYS STAFF WELFARE SOCIETY DISSOLUTION BILL

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AS REPORTED FROM THE COMMERCE COMMITTEE

## COMMENTARY

### **Recommendation**

The Commerce Committee has examined the New Zealand Railways Staff Welfare Society Dissolution Bill and recommends that it be passed with the amendments shown in the bill.

### **Conduct of the examination**

The New Zealand Railways Staff Welfare Society Dissolution Bill was referred to the Commerce Committee on 6 August 1998. The closing date for submissions was 11 September 1998. We received and considered four submissions from the New Zealand Railways Staff Welfare Society, the Rail and Maritime Transport Union (RMTU), Tranz Rail Limited and the New Zealand Railway Superannuitants' Association. We heard all the submissions orally. Hearing of evidence and consideration took thirty-three minutes.

We received advice from the Treasury.

This commentary sets out the details of our consideration of the bill and the major issues we addressed.

### **Background**

The bill aims to repeal Part VIII of the New Zealand Railways Corporation Act 1981 which relates to the New Zealand Railways Staff Welfare Society (the Society). The bill is the result of a request from the Welfare Board of the Society. The bill provides for the winding up of the Society and the transfer of its assets and liabilities to a charitable trust established to continue the Society's operations.

### **New Zealand Railways Staff Welfare Society**

The Society was first established in 1958. Its role is to provide relief, assistance and benefits to the members of the Society. There are three types of members of the Society: those employed by Tranz Rail Limited and other eligible employment groups (Group A); former Group A members who are no longer employed in the

rail industry because of retirement, early retirement or redundancy (Group B) and members of the RTMU who are not employed in the rail industry.

The Society's activities include the reimbursement of 80 percent of medical costs for Group A members, payments of grants on the death of Group A members, holiday accommodation at reduced rental rates, and financial assistance where there is evidence of hardship and misfortune.

The creation of New Zealand Rail Limited to assume the operating functions of the New Zealand Railways Corporation and the subsequent sale of New Zealand Rail Limited into private ownership make it inappropriate that the Society should continue to operate under the 1981 Act. The Society decided that it would best be able to provide for its members by operating as a charitable trust. The Society surveyed its members in 1993 and received a clear indication of support for the proposal. The New Zealand Railways Staff Welfare Charitable Trust was established in November 1993 and incorporated under the Charitable Trusts Act 1957 in December 1993.

The Society has continued to operate and it receives cooperation and support from Tranz Rail Limited. The Welfare Board has eight members on it. Four are appointed by the Chief Executive Officer of Tranz Rail Limited and four by the General Secretary of the Rail and Maritime Transport Union.

Legislation is still considered to be required as there appears to be little reason for the Government to continue having a direct influence on the Society's operations and its future when there is an alternative which can provide full protection of the rights of the Society's membership. As a Trust the Society will be in a position to adopt changes of benefit to the members without requiring Parliament to consider amending legislation. If the Society finds it necessary to cease operations the provisions of the Charitable Trusts Act 1957 will provide access to a procedure for disposal of assets which is not provided for within the existing legislation.

### **Amendments recommended**

One amendment was sought by the submissions. This was to incorporate a specific clause to protect the existing rights of membership of the Society's various member groups by vesting their membership in the Charitable Trust. This amendment will ensure the bill contains a specific reference to members of the Society being automatically members of the Trust on the commencement date of the bill if enacted. This would avoid possibly lengthy administrative procedures for some groups of members. We agree and recommend accordingly.

We also recommend an amendment to clause 8 (a) to clarify the reference in clause 3 as amended to members of the charitable trust as it is somewhat unusual for beneficiaries of a trust to be referred to as members.

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KEY TO SYMBOLS USED IN REPRINTED BILL  
AS REPORTED FROM A SELECT COMMITTEE

*Struck Out (Unanimous)*

Subject to this Act,

Text struck out unanimously

*New (Unanimous)*

Subject to this Act,

Text inserted unanimously

*Hon Tony Ryall*

**NEW ZEALAND RAILWAYS STAFF WELFARE  
SOCIETY DISSOLUTION**

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ANALYSIS

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1. Short Title and commencement	9. Purposes of charitable trust
2. Interpretation	10. Charitable trust subject to Trustee Act 1956
<i>Dissolution of Society, etc</i>	<i>Other Matters</i>
3. Dissolution of society	11. Enactments repealed
4. Vacation of office by members of Welfare Board	
5. Final report of society	
6. Registers	
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7. Trustees	

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A BILL INTITULED

**An Act to—**

- (a) Dissolve the New Zealand Railways Staff Welfare Society; and**
- 5 **(b) Transfer its assets and liabilities to a charitable trust; and**
- (c) Provide for incidental matters**

BE IT ENACTED by the Parliament of New Zealand as follows:

10 **1. Short Title and commencement—**(1) This Act may be cited as the New Zealand Railways Staff Welfare Society Dissolution Act 1998.

(2) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

15 **2. Interpretation—**In this Act, unless the context otherwise requires,—

“Charitable trust” means the charitable trust established by deed dated 23 November 1993 with the name

*New Zealand Railways Staff Welfare  
Society Dissolution*

New Zealand Railways Staff Welfare Trust, and includes that trust under any other name:

“Commencement day” means the day on which this Act comes into force:

“Society” means the New Zealand Railways Staff Welfare Society established by Part VIII of the New Zealand Railways Corporation Act 1981: 5

“Welfare Board” means the New Zealand Railways Staff Welfare Board established by Part VIII of the New Zealand Railways Corporation Act 1981. 10

*Dissolution of Society, etc*

**3. Dissolution of society**—On and from the commencement day,—

- (a) The society and the Welfare Board are dissolved; and
- (b) Every management council or district committee appointed by the Welfare Board under section 106 of the New Zealand Railways Corporation Act 1981 is dissolved; and 15
- (c) The real and personal property and the rights and liabilities of the society vest in the charitable trust; and 20

*New (Unanimous)*

(ca) Any person who was a member of the society immediately before the commencement day becomes a member of the charitable trust; and	25
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(d) A contribution or levy held by another person as the agent of the society immediately before the commencement day is, on and from the commencement day, held by that person as the agent of the charitable trust; and 30

(e) All proceedings pending by or against the society may be carried on, completed, or enforced by or against the charitable trust.

**4. Vacation of office by members of Welfare Board—**

(1) A person who, immediately before the commencement day, held office as a member of the Welfare Board is deemed to vacate that office on the commencement day. 35

(2) A person who vacates that office solely as a result of this Act is not entitled to compensation for loss of the office.

**5. Final report of society**—(1) As soon as reasonably practicable after the commencement day, the Chairman must arrange for a final report of the society to be completed.

(2) The report must—

5 (a) Describe the society's operations for the period beginning on 1 April immediately preceding the commencement day and ending with the close of the day immediately preceding the commencement day; and

10 (b) Be accompanied by a copy of the society's audited accounts for that period.

(3) The Chairman must ensure that a copy of the report and accounts is provided to a person who was a member of the society immediately before the commencement day, on the request of that person.

15 (4) In this section, "Chairman" means the person who held office as the Chairman of the Welfare Board immediately before the commencement day.

**6. Registers**—(1) A Registrar of Deeds, District Land Registrar, or any other person charged with keeping books or registers is not required to change the name of the society to that of the charitable trust in the books, registers, or a document solely by reason of the provisions of this Act.

20 (2) The presentation to a registrar or other person of an instrument, whether it is an instrument of transfer or not, by the charitable trust is, in the absence of evidence to the contrary, sufficient proof that the property is vested in the charitable trust if the instrument—

(a) Is executed, or purports to be executed, by the charitable trust; and

30 (b) Relates to property held by the society immediately before the commencement day; and

(c) Contains a recital that the property became vested in the charitable trust by virtue of the provisions of this Act.

#### *Operation of Charitable Trust*

35 **7. Trustees**—(1) Each trustee of the charitable trust must be appointed in the manner prescribed in the trust deed.

(2) Each trustee holds office for a term prescribed or provided for by the trust deed.

40 **8. Matters to be included in trust deed**—The trust deed of the charitable trust must contain provisions—

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| (a) Specifying the persons who may receive benefits from the trust: |  |
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*New (Unanimous)*

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| (a) Specifying the persons who are entitled to be members of the trust, and the persons who may receive benefits from the trust: | 5 |
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- (b) For the collection of contributions to any fund or funds established by the trust:

- (c) For the keeping of accounts: 10

- (d) For the holding of, and voting at, meetings of trustees:

- (e) Specifying the quorum required for the holding of meetings of trustees:

- (f) Specifying the investment powers of the trustees:

- (g) Specifying the borrowing powers of the trustees: 15

- (h) Specifying the manner in which a vacancy in the office of trustee must be filled:

- (i) Specifying the manner in which the trust deed may be varied.

**9. Purposes of charitable trust**—For the purposes of the application to the charitable trust of the provisions of any other enactment or rule of law, all the purposes of the charitable trust are deemed to be charitable purposes. 20

**10. Charitable trust subject to Trustee Act 1956**—The Trustee Act 1956 applies to the charitable trust, but does so subject to this Act. 25

*Other Matters*

**11. Enactments repealed**—The enactments specified in the Schedule are repealed.

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Society Dissolution*

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**SCHEDULE**

**Section 11**

ENACTMENTS REPEALED

- 1981, No. 119—The New Zealand Railways Corporation Act 1981: Part VIII.
- 1988, No. 119—The Trustee Amendment Act 1988: So much of the Second Schedule as relates to the New Zealand Railways Corporation Act 1981.
- 1990, No. 105—The New Zealand Railways Corporation Restructuring Act 1990: So much of the Second Schedule as relates to sections 103, 104, 106, 107, and 108 of the New Zealand Railways Corporation Act 1981.