

QUEEN ELIZABETH THE SECOND NATIONAL TRUST BILL

EXPLANATORY NOTE

THIS Bill would establish, in commemoration of the Silver Jubilee of Her Majesty Queen Elizabeth the Second, a national trust to encourage and promote the provision of open space for the benefit and enjoyment of the people of New Zealand.

The concept of open space is defined to mean any land, or body of water, that assists in preserving a landscape of aesthetic, cultural, recreational, scenic, scientific, or social interest or value.

The Trust will have a board of 10 directors, of whom 3 (including the Chairman) will be appointed by the Minister of Lands; one will be appointed by the Minister, after consultation with the Minister of Maori Affairs, to represent the Maori people; 2 will be appointed by the Minister after consultation with the Federated Farmers of New Zealand (Incorporated); one will be appointed by the Minister after consultation with the New Zealand Counties Association (Incorporated); one will be appointed by the Minister after consultation with the Municipal Association of New Zealand (Incorporated); and 2 will be elected by the members of the Trust to represent their interests.

Provision is made for subscription for membership of the Trust. Members will be entitled to reports of the Trust's operations, and to elect their representatives to be directors on the Board.

The Trust will have investigative and recommendatory, rather than regulatory, functions. It will have a continuing, independent role in the encouragement and promotion of open space, and will undertake investigations and provide advice and assistance to Ministers, Government departments, and other bodies and agencies involved in the provision and protection of open space. It will be concerned specifically with the formulation of relevant policies and the encouragement and promotion of the co-ordination of the activities of involved bodies and agencies.

In addition, however, the Trust will have power to make grants for the development of open space and to acquire open space in its own name. It may also negotiate with landowners for the preservation of open space by way of open space covenants.

Clause 1 of the Bill specifies the Short Title.

Clause 2 defines expressions used in the Bill.

PART I

THE QUEEN ELIZABETH THE SECOND NATIONAL TRUST

This Part establishes the Trust, and provides for its administration and membership.

Clause 3 establishes the Trust as a body corporate.

Clause 4 provides for the appointment of the board of directors to manage the affairs of the Trust.

Clause 5 provides for the membership of the Trust. It will initially consist of ordinary subscribing members, junior members, corporate members, life members, and benefactors. Other classes of membership may be established by Order in Council. The Board may from time to time determine the subscriptions payable by members.

Clause 6 has the effect of providing that the directors will serve 3-year terms; and also provides for annual rotation of a proportion of the directors to ensure continuity of experience.

Clause 7 deals with extraordinary vacancies on the Board.

Clause 8 provides for one of the directors to be elected by his fellow directors as the Deputy Chairman.

Clause 9 deals with the procedure at meetings of the Board. The permanent heads of specified Government departments having an interest in open space may attend and speak at meetings, but will not be able to vote.

Clause 10 requires the Board to establish an executive committee, and empowers it to appoint other committees. Two of the members of the executive committee must be the directors appointed by the Minister of Lands after consultation with the Federated Farmers of New Zealand (Incorporated).

Clause 11 provides for the delegation of the Board's powers.

Clause 12 relates to the protection of persons while acting in good faith.

Clause 13 provides for the remuneration of directors and members of committees.

Clause 14 requires the disclosure of directors' interests.

Clause 15 deals with the making of contracts.

Clause 16 empowers the Board to make rules for the management of the Trust. Rules must be made to provide for the election of the representatives of members to the Board. Only members and officers of corporate members will be eligible to be elected. The approval of the Minister of Lands is required for rules relating to such elections.

Clause 17 empowers the Board to make bylaws for the management of Trust land. Bylaws may not be made derogating from the interests of any other persons in the land.

Clause 18 provides for the appointment of an Executive Officer of the Trust and other staff.

Clause 19 provides that persons are not deemed to be state servants by reason only of being directors or members, or persons engaged on contract by the Trust.

PART II

FUNCTIONS AND POWERS OF TRUST

This Part defines the functions and general powers of the Trust.

Clause 20 sets out the Trust's functions, which have already been generally described above.

Clause 21 sets out the general powers of the Trust. In particular, it may pay or contribute towards the payment of the rates of any person who has executed an open space covenant over his land.

Clause 22 provides for the execution of open space covenants. Where the Board is satisfied that any land ought to be maintained as open space, it may treat and agree with the owner for the execution of an open space covenant in favour of the Trust.

The effect of the covenant, which will be registrable against the title and will run with the land, will be to require the land to be maintained as open space in accordance with the terms of the covenant. The terms of particular covenants will depend on the agreements negotiated with the owners, and may vary from case to case.

PART III

FINANCIAL PROVISIONS

This Part provides for the financial administration of the Trust.

Clause 23 establishes the Trust Fund, and distinguishes between capital and income.

Clause 24 requires a bank account to be opened for the Fund.

Clause 25 provides for the investment of funds.

Clause 26 permits unauthorised expenditure not exceeding \$500 in any year.

Clause 27 defines the borrowing powers of the Trust.

Clause 28 specifies its financial year.

Clause 29 provides for the acceptance of donations to the Trust.

Clause 30 provides for the exemption of the Trust from liability for taxes and duties, and for the exemption from duty of gifts to the Trust.

Clause 31 requires the Trust to keep proper accounts, and provides for their annual audit.

Clause 32 provides for an annual report, which is to be sent with the audited accounts to the Minister of Lands and to every member of the Trust. The report and accounts must also be tabled in Parliament.

PART IV

MISCELLANEOUS PROVISIONS

This Part deals with miscellaneous matters.

Clause 33 provides that subject to bylaws, and to any other conditions imposed by the Board, and (in the case of land subject to an open space covenant) to the terms of the covenant, the public shall enjoy freedom of access to Trust land and land subject to open space covenants.

Clause 34 creates offences in respect of Trust property and land subject to open space covenants.

Hon. V. S. Young

QUEEN ELIZABETH THE SECOND NATIONAL TRUST

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A BILL INTITULED

An Act to commemorate the Silver Jubilee of Her Majesty Queen Elizabeth the Second by establishing a national trust to encourage and promote the provision, protection, and enhancement of open space for the benefit and enjoyment of the people of New Zealand 5

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Queen Elizabeth the Second National Trust Act 1977. 10

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

“Board” means the board of directors:

“Chairman” means the Chairman of the Board: 15

“Committee” means a committee appointed under section 10 of this Act:

“Crown lease” means a lease or licence granted under the Land Act 1948 or under any former Land Act; and “lessee” has a corresponding meaning: 20

“Deputy Chairman” means the Deputy Chairman of the Board:

“Director” means a director of the Trust appointed under section 4 of this Act:

“Maori land” has the same meaning as it has in section 2 (1) of the Maori Affairs Act 1953: 25

“Member” means a member of the Trust under section 5 of this Act:

“Minister” means the Minister of Lands:

“Open space” means any area of land or body of water that serves to preserve or to facilitate the preservation of any landscape of aesthetic, cultural, recreational, scenic, scientific, or social interest or value: 30

“Owner”, in relation to any private land, includes any person having any interest in that land: 35

“Private land” means any land that is for the time being held in fee simple by any person other than Her Majesty the Queen; and also means Maori land:

“Reserve” means a public reserve as defined in section 2 (1) of the Reserves and Domains Act 1953: 40

“Trust” means the Queen Elizabeth the Second National Trust established by section 3 of this Act:

“Trust Fund” means the National Trust Fund established by section 23 of this Act:

“Trust land” means any land, or interest in land, of the Trust.

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PART I

THE QUEEN ELIZABETH THE SECOND NATIONAL TRUST

3. Establishment of Trust—(1) There is hereby established a body to be called the Queen Elizabeth the Second National Trust.

10 (2) The Trust shall consist of the board of directors and the members.

(3) The Trust shall be a body corporate, with perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal
15 property, and of suing and being sued, and of doing and suffering all other things that bodies corporate may lawfully do and suffer.

4. Directors of Trust—(1) There shall be a board of the directors of the Trust consisting of the following persons:

20 (a) A Chairman, who shall be appointed by the Minister:

(b) Two other directors appointed by the Minister:

(c) One director appointed by the Minister, after consultation with the Minister of Maori Affairs, to represent the Maori people of New Zealand:

25 (d) Two directors appointed by the Minister, after consultation with the Federated Farmers of New Zealand (Incorporated):

(e) One director appointed by the Minister, after consultation with the New Zealand Counties Association (Incorporated):

30 (f) One director appointed by the Minister, after consultation with the Municipal Association of New Zealand (Incorporated):

(g) Two directors elected by the members of the Trust in accordance with its rules.

35 (2) The Board shall have the executive control and management of the affairs of the Trust, and shall exercise and perform the functions, powers, and duties of the Trust in its behalf, and shall be responsible for its effective and efficient
40 administration.

(3) The powers of the Board shall not be affected by any vacancy in its membership.

5. Membership of Trust—(1) There shall be the following classes of membership of the Trust:

- (a) Ordinary subscribing members, being persons who subscribe annually to the Trust Fund the subscription for ordinary subscribing members: 5
- (b) Junior members, being persons under an age for the time being specified by the Board (not being more than 18 years), who subscribe annually to the Trust Fund the subscription for junior members:
- (c) Corporate members, being bodies corporate or being 10 other associations or bodies for the time being approved for the purpose by the Board, who subscribe annually to the Trust Fund the corporate subscription:
- (d) Life members, being persons who have subscribed to 15 the Trust Fund the life subscription:
- (e) Benefactors, being persons who have given to the Trust money or property of such amount or value as the Board by resolution determines to be sufficient to entitle those persons to be distinguished as 20 benefactors:
- (f) Such other classes of membership as may be established under subsection (2) of this section.

(2) The Governor-General may from time to time, by Order in Council, establish other classes of membership of 25 the Trust, on such conditions as he may specify in the order.

(3) The Board may from time to time, by notice published in the *Gazette*, determine the amount of any subscription payable by members of any class (other than benefactors).

(4) A notice under subsection (3) of this section may, 30 in the case of the subscriptions payable by corporate members, specify different subscriptions for different categories of corporate members.

(5) A person who—

(a) Pays to the Trust the appropriate subscription for any 35 class of membership, and otherwise meets the requirements of the Board in relation to that class; or

(b) Meets the requirements of the Board in relation to 40 benefactors—

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

6. Terms of office of directors—(1) The Chairman shall be appointed for a term of 3 years.

(2) On the 31st day of March, in the year 1979 and in every succeeding year, 3 directors (other than the Chairman) shall
5 retire from office.

(3) The directors to retire in any year shall be the 3 who at that date have held office for the longest period since their appointments or (if they have been reappointed) since their
reappointments.

10 (4) If more than 3 directors have held office for the longest period, the 3 who are to retire shall be determined by lot in such manner as the Board shall decide.

(5) Notwithstanding any other provision in this section, every director (including the Chairman) unless he sooner
15 vacates his office under section 7 of this Act, shall continue in office until his successor comes into office.

(6) Any director (including the Chairman) may from time to time be reappointed.

7. Extraordinary vacancies—(1) A director may at any
20 time resign his office by delivering a notice in writing to that effect to the Board.

(2) A director may at any time be removed from office by the Governor-General for disability, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

25 (3) Where a director dies, resigns, or is removed from office, the vacancy occurring shall be called an extraordinary vacancy.

(4) On the occurrence of an extraordinary vacancy, the Board shall forthwith notify the person or body by whom the
30 director vacating office was appointed or elected of the vacancy.

(5) An extraordinary vacancy shall be filled in the same manner as the appointment or election of the director vacating office.

35 **8. Deputy Chairman—**(1) At the first meeting of the Board, and thereafter at the first meeting of the Board held after the 31st day of March in each year, and also at the first meeting of the Board held after any occurrence of a

vacancy in the office of the Deputy Chairman, the Board shall elect a director to be the Deputy Chairman. Any person so elected shall hold office, while he continues to be a director, until an appointment of his successor is made in accordance with this section. 5

(2) A director may from time to time be reappointed as the Deputy Chairman.

(3) Subject to the provisions of this Act, the Deputy Chairman shall have all the functions, powers, and duties of the Chairman during the absence or incapacity of the Chairman or while there is a vacancy in the office of Chairman. 10

(4) No act done by the Deputy Chairman acting as Chairman, and no act done by the Board while the Deputy Chairman is acting as Chairman, shall in any proceedings be questioned on the ground that the occasion for his so acting had not arisen or had ceased. 15

9. Meetings of Board—(1) The first meeting of the Board shall be held at a time and place to be determined by the Minister.

(2) Subsequent meetings of the Board shall be held at such times and places as it determines. 20

(3) Notwithstanding subsection (2) of this section, the Chairman may at any time and shall, whenever required in writing to do so by any 3 directors, call a special meeting of the Board. 25

(4) The Executive Officer of the Trust shall give to every director, and to the persons specified in paragraphs (a) to (f) of subsection (5) of this section, not less than 7 days' notice in writing of every meeting of the Board and of the business to be transacted at the meeting, but an inadvertent failure to comply with this subsection shall not invalidate the proceedings of the meeting. 30

(5) Any of the following officers, namely—

(a) The Director-General of Lands;

(b) The Director-General of Forests; 35

(c) The Commissioner for the Environment;

(d) The Secretary for Internal Affairs;

(e) The Secretary for Maori Affairs; and

(f) The Commissioner of Works—

or a senior officer of his department authorised by him to represent him for the purpose, may attend any meeting of the Board and speak on any question before the meeting, but may not vote on any question before the meeting. 40

(6) No business may be transacted at a special meeting of the Board unless it is specified in the notice required under subsection (4) of this section or all the directors for the time being in New Zealand agree to its transaction at that meeting.

(7) At every meeting of the Board, 5 directors shall be a quorum.

(8) The Chairman shall preside at every meeting of the Board.

10 (9) Where for any reason the Chairman is unable to preside at any meeting of the Board—

(a) The Deputy Chairman shall preside if he is able to do so; and

15 (b) If the Deputy Chairman is unable to preside, the directors present shall elect one of their number to preside.

(10) Every question before a meeting of the Board shall be decided by a majority of the votes of the directors present at the meeting.

20 (11) On every question before a meeting, the person presiding shall have a deliberative vote, and in the case of an equality of votes he shall also have a casting vote.

(12) A resolution signed or assented to by letter or telegram by every director for the time being in New Zealand shall have the same effect as a resolution duly passed at a meeting of the Board.

(13) Subject to the other provisions of this Act, the Board may regulate its own procedure as it thinks fit.

30 **10. Committees**—(1) There shall be an executive committee of the Board, consisting of—

(a) The Chairman;

(b) The 2 directors specified in section 4 (1) (d) of this Act; and

35 (c) Not less than 2 other directors who shall from time to time be elected by the Board to be members of the executive committee.

(2) Subject to the other provisions of this Act, and to any general or special directions given to it by the Board, the executive committee shall be responsible to the Board for the administration of Trust land and the negotiation of open space covenants on behalf of the Trust, and shall have such other powers as may from time to time be conferred on it by the Board under section 11 of this Act.

(3) The Board may from time to time appoint special committees (including advisory and technical committees) for particular purposes, consisting of any persons whether or not they are directors or members of the Trust.

11. Delegation of powers—(1) The Board may from time to time, in respect of any particular matter or class of matters, or in respect of any particular area within New Zealand, in writing delegate to— 5

(a) Any director or member or committee, or any other officer of the Trust; or 10

(b) The holder for the time being of any specified office or class of office of the Trust—

any of the powers of the Board under this Act except this power of delegation.

(2) Subject to any general or special directions given to him or to it by the Board, the person or committee to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him or it directly by this Act and not by delegation. 15 20

(3) Every person or committee purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Board. 25

12. Protection of directors, members, and committees—No director, or member of the Trust, or member of any committee, shall be personally liable for any act or omission of the Trust, or of the Board, or of any such committee, or of any director, or officer or member of the Trust, if the act or omission is made in good faith in the course of operations of the Trust, or of the Board, or of the committee. 30

13. Remuneration of directors and committees—(1) The Board and every committee are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951. 35

(2) There may, if the Minister so directs, be paid out of the Trust Fund to—

- (a) The Chairman;
- (b) The Deputy Chairman;
- 5 (c) The directors; and
- (d) The members of the committees (not being employees of the Trust)—

remuneration by way of fees and salary in accordance with the Fees and Travelling Allowances Act 1951.

10 (3) There shall be paid out of the Trust Fund to every person specified in subsection (2) of this section travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951 in respect of time spent by him travelling in the service of the Trust.

15 (4) The Fees and Travelling Allowances Act 1951 shall apply accordingly.

14. Disclosure of interests—(1) The Board shall be a local authority within the meaning of section 2 (1) of the Local Authorities (Members' Interests) Act 1968, and the directors
20 shall be deemed to be the members of the Board for the purposes of that Act.

(2) The First Schedule to the Local Authorities (Members' Interests) Act 1968 is accordingly amended by inserting in Part II, in its appropriate alphabetical order, the following
25 item:

"The Queen Elizabeth the Second National Trust	1977, No. 52—The board of directors of the Queen Elizabeth the Second National Trust Act <u>1977.</u> "
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30 15. Contracts of Trust—(1) The Trust is hereby declared to be a public body for the purposes of the Public Bodies Contracts Act 1959.

(2) The First Schedule to the Public Bodies Contracts Act 1959 is accordingly amended by inserting in Part II, in its
35 appropriate alphabetical order, the following item:

"The Queen Elizabeth the Second National Trust	1977, No. 52—The Queen Elizabeth the Second National Trust Act <u>1977.</u> "
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40 16. Rules of Trust—(1) The Board may from time to time make rules of the Trust, not inconsistent with this Act, for all or any of the following purposes:

- (a) Regulating the proceedings of the Board and of committees: 5
 - (b) Providing for the custody of the property of the Trust, and the custody and use of the common seal of the Trust: 5
 - (c) Regulating the terms and conditions of employment of persons under section 18 (4) of this Act: 5
 - (d) Prescribing the conditions on which the Trust will make grants under this Act, and the manner in which applications for grants shall be made: 10
 - (e) Regulating the manner in which the Trust Fund shall be dealt with: 10
 - (f) Subject to subsections (4) and (5) of this section, prescribing the method of election of the directors specified in section 4 (1) (g) of this Act, and the form and manner of keeping an electoral roll of members for that purpose, and providing for matters incidental thereto: 15
 - (g) Providing for such other matters as may be necessary or expedient for the carrying out of the functions of the Trust. 20
- (2) Rules made for any purpose specified in subsection (1) (f) of this section may limit the right of junior members to vote in any election. 25
- (3) Notice in writing of every proposed resolution to make rules under this section or for the amendment or revocation of any rule so made, (including a copy of the proposed rules, amendment, or revocation) shall be given to every director for the time being in New Zealand, not less than 21 days before the meeting at which the proposal is to be moved, but an inadvertent failure to comply with this subsection shall not invalidate the making, amendment, or revocation of any rule at that meeting. 30
- (4) Notwithstanding that subsection (1) of this section confers a discretionary power on the Board to make rules, the following provisions shall apply in respect of the election of the directors specified in section 4 (1) (g) of this Act: 35
- (a) The Board may not make rules under this section for the election of such directors before the expiration of the period of 1 year following the commencement of this Act, but shall make such rules as soon as practicable after the expiration of that period: 40

(b) No rules made for the election of such directors shall come into force unless they have been approved by the Minister.

5 (5) No person shall be capable of being elected as a director specified in section 4 (1) (g) of this Act unless he is—

(a) A member of the Trust; or

(b) An officer of a corporate member of the Trust.

10 **17. Bylaws**—(1) The Board may from time to time make bylaws, not inconsistent with this Act or with any other enactment, for all or any of the following purposes:

(a) Providing for the protection, preservation, management, and use of Trust land:

15 (b) Controlling, restricting, or prohibiting the entry of animals, or specified classes of animals, on Trust land:

(c) Controlling, restricting, or prohibiting the admission of persons to Trust land, and prescribing charges that shall be payable to the Trust for such admission:

20 (d) Controlling, restricting, or prohibiting the entry of vehicles, vessels, and aircraft on Trust land:

(e) Regulating the conduct of persons on Trust land:

(f) Providing that any breach of a bylaw shall be an offence, and imposing fines not exceeding \$200 for such offences:

25 (g) Generally regulating the use of Trust land, and providing for the preservation of order and the prevention of fires and nuisances on Trust land, and the safety of persons using Trust land.

30 (2) No bylaw may be made under this section in derogation of the rights of any person having any legal or equitable interest in any Trust land to which the bylaw relates.

(3) Any bylaw made under this section may be expressed to apply to all or any specified open space in respect of which 35 bylaws may be made.

(4) Notice in writing of every proposed resolution to make bylaws under this section or for the amendment or revocation of any bylaw so made (including a copy of the proposed bylaws, amendment, or revocation) shall be given to every 40 director for the time being in New Zealand, not less than 21 days before the meeting at which the proposal is to be

moved, but an inadvertent failure to comply with this subsection shall not invalidate the making, amendment, or revocation of any bylaw at that meeting.

(5) No bylaws made under this section shall come into effect unless— 5

(a) They have been approved by the Minister; and

(b) The bylaws, as approved by the Minister, have been published by the Board in the *Gazette*.

(6) All bylaws made under this section shall, after they have been approved by the Minister, be notified once by an advertisement as to their nature in at least one newspaper circulating in every locality in which any Trust land to which they relate is situated. 10

18. Appointment of employees—(1) There shall from time to time be appointed, under the State Services Act 1962, an Executive Officer and such other officers and employees of the Trust as may be necessary for the administration of its affairs. 15

(2) The Executive Officer shall be the chief administrative officer of the Trust and shall be responsible to the Board for the efficient and economical administration of the affairs of the Trust. 20

(3) Any office held by a person appointed under subsection (1) of this section may be held either separately or in conjunction with any other office in the Public Service. 25

(4) Subject to the rules of the Trust, the Board may from time to time enter into contracts with persons, on such terms and conditions as it thinks fit, to provide such services or perform such work for the Trust as the Board may require.

(5) Subject to the rules of the Trust, there shall be paid to every person engaged on contract under subsection (4) of this section such remuneration as the Board may determine. 30

19. Status of directors, members, committees, and persons engaged on contract—No person, by reason only of his being a director, or a member of the Trust, or a member of a committee, or a person engaged on contract under section 18 (4) of this Act, shall be deemed to be employed in the State services for the purpose of the State Services Act 1962, or in the Government service for the purpose of the Government Superannuation Fund Act 1956. 35 40

PART II

FUNCTIONS AND POWERS OF TRUST

20. **Functions of Trust**—(1) The general functions of the Trust shall be to encourage and promote, for the benefit and enjoyment of the present and future generations of the people of New Zealand, the provision, protection, preservation, and enhancement of open space.

(2) In particular, but without limiting the general functions described in subsection (1) of this section, the Trust shall—

- (a) Advise the Minister on the provision, protection, preservation, enhancement, and use of open space;
- (b) Formulate, investigate, and appraise policies and specific proposals for the provision, protection, preservation, enhancement, and use of open space;
- (c) Undertake on its own account a continuing review of the adequacy and accessibility of all forms of open space;
- (d) Undertake the identification and classification of potential reserves and recreation areas as being of national, regional, local, or special significance;
- (e) Make recommendations as to the matters specified in paragraphs (b) to (d) of this subsection to appropriate Ministers, departments, and other persons and bodies, including recommendations to appropriate Ministers as to areas of special significance that should be given special protection and the methods of such protection;
- (f) Undertake, and encourage and promote the undertaking by other interested persons and bodies, of research and studies into matters relating to open space;
- (g) Disseminate knowledge and information and give advice, relating to open space, to all interested persons and bodies, and encourage and promote such activities by other interested persons and bodies;
- (h) Encourage and promote the co-ordination of the activities of all interested departments, persons, and bodies in matters relating to open space;

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- (i) Negotiate the execution of open space covenants and the acquisition in its own name of any open space; and
 - (j) Distribute from the Trust Fund such grants as it thinks fit to encourage, promote, and assist the undertaking by suitable persons and bodies of any research, studies, or other activities relating to open space, and the acquisition or establishment of any open space. 5
- (3) Nothing in this Act shall authorise the Trust to undertake any activity in derogation of the provisions of the Historic Places Act 1954. 10

21. Powers of Trust—(1) The Trust shall have all the powers that are reasonably necessary or expedient to enable it to carry out its functions under this Act. 15

(2) In particular, but without limiting the generality of its powers under subsection (1) of this section, the Trust may from time to time do all or any of the following things:

- (a) Acquire by purchase, lease, exchange, bailment, gift, or otherwise, any interest in land or any other form of property: 20
- (b) Dispose of any of its property (other than Trust land) by sale, lease, exchange, or bailment:
- (c) Dispose of any Trust land by lease, exchange, or bailment, or (with the prior consent in writing of the Minister) by sale: 25
- (d) Engage any person or body to undertake the management, alteration, development, improvement, repair, or maintenance of any of its property:
- (e) Charge such fees as it thinks fit for admission to any Trust land to which it has power to control admission: 30
- (f) Pay wholly or partly the rates for any owner of land who has executed an open space covenant in favour of the Trust or has allowed the Trust the use of his land. 35

22. Open space covenants—(1) Where the Board is satisfied that any private land, or land held under Crown lease, ought to be established or maintained as open space, and

that such purpose can be achieved without the Trust acquiring the ownership of the land or, as the case may be, the lessee's interest in the land, the Board may treat and agree with the owner or lessee of the land for the execution by the
5 owner or lessee in favour of the Trust of an open space covenant on such terms and conditions as the Board and the owner or lessee may agree.

(2) In the case of a Crown lease, the consent of the Land Settlement Board shall be required to the execution of the
10 covenant, and that Board may give its consent subject to the inclusion in the open space covenant of any conditions that it thinks necessary, and may agree to a reduction in rent if, having regard to the basis for fixing the rent, it appears to that Board to be fair and equitable to do so.

(3) The effect of an open space covenant shall be to require
15 the land to which it applies to be maintained as open space in accordance with the terms of the covenant and, subject always to those terms, in accordance with the other provisions of this Act relating to land to which open space covenants
20 apply.

(4) An open space covenant may be executed to have effect
in perpetuity or for a specified term, according to the nature of the interest in land to which it applies and the terms and conditions of the agreement between the Trust and the
25 owner.

(5) Notwithstanding any rule of law or equity to the contrary, every open space covenant shall run with and bind the land that is subject to the burden of the covenant, and shall be deemed to be an interest in the land for the purposes of the
30 Land Transfer Act 1952.

(6) The District Land Registrar for the land registration district in which the land is situated shall on the application of the Board enter in the appropriate folium of the register relating to the land that is subject to the burden of the
35 covenant a notification of the covenant.

(7) Where the burden of the covenant applies to land comprising part of the land in a certificate or instrument of title, the District Land Registrar may require the deposit of a plan in accordance with section 167 of the Land Transfer
40 Act 1952.

PART III

FINANCIAL PROVISIONS

- 23. National Trust Fund**—(1) There is hereby established a fund to be known as the National Trust Fund, which shall be the fund of the Trust. 5
- (2) The capital of the Trust Fund shall consist of the following money:
- (a) All money received by the Trust out of money appropriated by Parliament as capital grants for the purposes of the Trust: 10
 - (b) All money lawfully contributed, donated, or bequeathed to the Trust except—
 - (i) The income arising from any shares, debentures, or other similar securities that are held on behalf of the Trust and are the subject of a gift to the Trust; and 15
 - (ii) Any money paid to the Trust in the form of an annuity or with an express direction by the donor that it is to be applied as income: 20
 - (c) All money derived from the sale of any Trust land: 20
 - (d) All income transferred to capital under subsection (4) of this section.
- (3) The income of the Trust Fund shall consist of:
- (a) All money received by the Trust out of money appropriated by Parliament as income grants for the purposes of the Trust: 25
 - (b) All income derived from the investment of money by or on behalf of the Trust under this Act:
 - (c) All income derived from the administration of property held by or on behalf of the Trust: 30
 - (d) All money derived from the leasing of land or resulting from any agreement entered into by the Trust under this Act:
 - (e) All money derived from subscriptions by members of the Trust: 35
 - (f) All other money not forming part of the capital of the Trust Fund.
- (4) Any income of the Trust Fund not for the time being required for expenditure under this Act may, at the discretion of the Trust, be transferred to the capital of the Trust Fund, whether or not the income has been invested under section 25 (3) of this Act. 40

24. **National Trust Fund Account**—(1) The Board shall open and maintain, at such bank as it from time to time determines, an account to be called the National Trust Fund Account.

5 (2) All money forming part of the Trust Fund shall, as soon as practicable after it is received by any proper officer of the Trust, be paid into the National Trust Fund Account.

(3) No money shall be paid out of the National Trust Fund Account except with the authority, and in accordance with
10 any general or special directions, of the Board.

(4) The National Trust Fund Account may only be operated on by cheque or other negotiable instrument (not being a promissory note or bill) signed by a director or other officer of the Trust who is authorised by the Board to sign
15 cheques drawn on the account, and countersigned by any other director or officer of the Trust who is authorised by the Board to sign such cheques.

25. **Powers of investment**—(1) Any money, being capital of the Trust Fund within the meaning of section 23 of this Act,
20 held by or on behalf of the Trust, and not required for any other purpose, may from time to time be invested in any securities in which trust funds may be invested by trustees in accordance with the Trustee Act 1956 or in accordance with any other statutory authority or in such other manner as the
25 Board, with the prior consent in writing of the Minister of Finance, may from time to time determine.

(2) Notwithstanding any rule of law or equity to the contrary, the Trust shall not be obliged to convert any securities that are the subject of a gift to the Trust and are
30 not securities in which the Trust may invest money pursuant to subsection (1) of this section.

(3) Any money, being income of the Trust within the meaning of section 23 of this Act, may, at the discretion of the Board, from time to time be invested in any manner
35 authorised for the investment of capital under subsection (1) of this section.

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

27. Borrowing powers—With the prior consent in writing of the Minister of Finance, the Trust may borrow money from the Crown or from any bank, corporation, or person or body; and for the purpose of securing any money so borrowed, it may mortgage, charge, or pledge any right, title, estate, or interest in any of its property. 5

28. Financial year—The financial year of the Trust shall end with the 31st day of March in every year, or with such other date in any year as the Board, with the prior consent in writing of the Minister of Finance, may from time to time determine. 10

29. Donations to Trust—Any local authority within the meaning of the Local Authorities Loans Act 1956, any other public body, any public corporation, any company or other incorporated body, any unincorporated body of persons, and any other person or body may, unless expressly prohibited by any Act or instrument of trust affecting the donor, make to the Trust donations or gifts and the Trust may accept any such donations or gifts. 15

30. Exemptions from duties and taxes—(1) Section 13 of the Stamp and Cheque Duties Act 1971 is hereby amended by inserting in subsection (1), after paragraph (cb) (as inserted by section 34 (1) of the Recreation and Sport Act 1973), the following paragraph: 20

“(cc) The Queen Elizabeth the Second National Trust for the purposes of the Queen Elizabeth the Second National Trust Act 1977; or”.

(2) Section 14 of the Stamp and Cheque Duties Act 1971 is hereby amended by inserting in subsection (1), after paragraph (ha), (as inserted by section 34 (2) of the Recreation and Sport Act 1973) the following paragraph: 30

“(hb) The Queen Elizabeth the Second National Trust for the purposes of the Queen Elizabeth the Second National Trust Act 1977; or”.

(3) Section 33 of the Estate and Gift Duties Act 1968 is hereby amended by adding, as subsection (2), the following subsection: 35

“(2) Where the whole of the estate or interest of the deceased in any land becomes on or before his death indefeasibly vested in possession in the Queen Elizabeth the Second National Trust for the purposes of the Queen Eliza- 40

both the Second National Trust Act 1977 free of any trust for the benefit of any person, that estate or interest shall not be included in his dutiable estate.”

5 (4) Section 73 of the Estate and Gift Duties Act 1968 is hereby amended by adding to subsection (2) (as amended by section 34 (3) of the New Zealand Council for Recreation and Sport Act 1973) the following paragraph:

10 “(j) Any gift to the Queen Elizabeth the Second National Trust for the purposes of the Queen Elizabeth the Second National Trust Act 1977.”

(5) All land owned by the Trust shall be exempt from land tax.

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

15 **31. Accounts**—(1) The Board shall keep full and correct accounts of all money received and expended by the Trust.

20 (2) The Board shall, as soon as possible after the end of every financial year, cause the accounts of the Trust for that financial year to be balanced, and cause to be prepared a statement of the assets and liabilities of the Trust as at the end of that financial year, together with an account of income and expenditure showing the financial transactions of the Trust for that year.

25 (3) The balance sheet, statement, and other accounts of the Trust shall be submitted to and audited by the Audit Office, which for that purpose shall have the same powers as it has under the Public Revenues Act 1953 in respect of public money and stores and the audit of local authorities' accounts.

30 **32. Annual report**—(1) As soon as practicable after the 30th day of June in every year, the Board shall furnish to the Minister a report of the proceedings and operations of the Trust for the preceding financial year, together with a copy of its audited accounts for that year.

35 (2) Copies of the report and of the audited accounts shall be laid before Parliament as soon as practicable after they have been received by the Minister.

(3) A copy of the report and of the audited accounts shall also be sent by the Board to every member as soon as practicable after the Board has complied with subsection (1) of this section.

PART IV

MISCELLANEOUS PROVISIONS

33. Public access—Subject to any bylaws made under this Act, and to such other conditions as the Board considers necessary or (in the case of land subject to an open space covenant) as may be provided for or limited by the covenant, the public shall have freedom of entry and access to all Trust land and to all land subject to an open space covenant. 5

34. Offences—(1) Every person commits an offence against this Act who, without the authority of the Board or of any person or body authorised by the Board in that behalf— 10

- (a) Lights on any Trust land any fire otherwise than in accordance with any bylaw made by the Trust in respect of such land; or
- (b) Wilfully damages or causes to be damaged any property or thing vested in or under the control of the Trust; or 15
- (c) Wilfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, mark, sign, or poster on any Trust land; or 20
- (d) Wilfully takes or removes, or causes to be taken or removed, from any Trust land, any property or thing vested in or under the control of the Trust; or
- (e) Receives any property or thing vested in or under the control of the Trust knowing the same to have been removed unlawfully from any Trust land. 25

(2) Every member of the public who has obtained entry or access under section 33 of this Act to any land subject to an open space covenant and who in the course or in consequence of that entry or access— 30

- (a) Lights any fire on that land; or
- (b) Wilfully damages or causes to be damaged any property or thing vested in or under the control of the owner of that land; or 35
- (c) Wilfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, mark, or sign on that land,—

without the consent of the owner of that land, commits an offence against this Act. 40

(3) Every person commits an offence against this Act who—

- 5 (a) Wilfully lights or causes or permits to be lit on any land, other than Trust land, a fire which he knows or ought to have known to be likely to spread into, and which spreads into and damages or destroys, any property or thing vested in or under the control of the Trust; or
- 10 (b) Alters, obliterates, defaces, pulls up, removes, or destroys any plaque or sign supplied and erected by the Trust on any land, other than Trust land, without the consent of the owner of the land or building and of the Board.
- 15 (4) Any person convicted of an offence under this section may, if the Court thinks fit, be ordered to pay, in addition to any penalty for which he is liable for the offence, a sum not exceeding the full market value of any property or thing removed from the land, or the cost of the damage done to the property or thing damaged, as assessed by the Court. The full market value shall be deemed to be the amount which the Trust or the owner of the property, or thing, as the case
- 20 requires, would have received by way of purchase price for the property or thing removed if the same had been offered for sale by the Trust or the owner on reasonable conditions in the condition in which it was before its severance and removal from the land.
- 25 (5) Any person who commits an offence against this Act for which no other penalty is provided is liable on summary conviction to a fine not exceeding \$500.