

Royal New Zealand Foundation of the Blind Bill

Private Bill

Explanatory note

Background

The Royal New Zealand Foundation for the Blind (the Foundation) is a body corporate established under the Royal New Zealand Foundation for the Blind Act 1963 (the 1963 Act). The Foundation has existed since 1890. Its role is to remove the barriers that blind and sight-impaired people face, to promote the participation of blind and sight-impaired people in all aspects of life, and to help ensure the incidence of preventable blindness is minimised.

The Foundation's governance structure was reviewed numerous times between 1945 and 2001. As a result of the governance reviews the Foundation decided:

- to adopt a constitutional model for its governance; and
- to establish the Foundation as an incorporated society; and
- to ask Parliament to repeal the 1963 Act.

The purpose of the Royal New Zealand Foundation of the Blind Bill is to enable the Foundation to implement the Foundation's decisions arising from the governance reviews.

Aim of Bill

The Bill proposes a two-stage process to change the Foundation's governance structure. In the first stage the Foundation will be reconstituted through the preparation and promulgation of rules for the operation of the Foundation and through the election of officers provided for under those rules.

The second stage provides for the future registration of the Foundation as a society incorporated under the Incorporated Societies Act 1908.

Clause by clause analysis

Clause 1 gives the title of the Bill.

Clause 2 gives the dates that the various parts of the Bill come into force. Clauses 1 to 7 come into force on the day after the Bill receives the Royal assent. The rest of the Bill comes into force on a date to be appointed by the Governor-General by Order in Council.

Clause 3 defines certain terms used in the Bill.

Clause 4 requires the Board of Trustees of the Royal New Zealand Foundation for the Blind to prepare rules that comply with the Incorporated Societies Act 1908.

Clause 5 outlines the procedures that must be followed if the rules are to be adopted by the Foundation. The rules must be adopted by a special resolution. The clause outlines who is eligible to vote on the special resolution and other procedures relating to the vote.

Clause 6 states that the Board must give a copy of the special resolution and the Foundation's rules to the Registrar of Incorporated Societies.

Clause 7 provides for the election of officers of the Foundation.

Clause 8 creates a Foundation called the Royal New Zealand Foundation of the Blind as a body corporate with perpetual succession. *Subclause (3)* states that the Foundation is the same body known as the Royal New Zealand Foundation for the Blind which existed before Part 3 of the Bill commenced.

Clause 9 states that the objects of the Foundation are charitable.

Clause 10 states the objects of the Foundation.

Clause 11 provides that the Incorporated Societies Act 1908 applies to the Foundation, its members and officers as if the Foundation were an incorporated society.

Clause 12 states which people become members of the Foundation.

Clause 13 provides that certain committees are abolished, certain by-laws revoked, and every trustee vacates his or her office when Part 3 of the Bill commences.

Clause 14 provides for the members of the Foundation to decide to apply to be registered as an incorporated society under the Incorporated Societies Act 1908.

Clause 15 permits the Foundation to give the Registrar of Incorporated Societies the Foundation's resolution to apply to be registered as an incorporated society and its application for incorporation under the Incorporated Societies Act 1908.

Clause 16 requires the Registrar of Incorporated Societies to register the Foundation as an incorporated society if certain conditions are met.

Clause 17 states that upon registration of the society the undertaking of the Foundation belongs to and vests in the society.

Clause 18 provides for existing contracts and other instruments to continue on the same terms as between the parties to them and the society.

Clause 19 requires references in instruments to the Foundation to be read as references to the society.

Clause 20 provides that legal proceedings by or against the Foundation may be continued by or against the society.

Clause 21 protects the Foundation, the society, and other persons from civil liability as the result of the Act or anything done under it and contains other similar protective provisions.

Clause 22 provides that employees of the Foundation continue to be employees of the society on the same terms and conditions, that their employment contracts are to be treated as unbroken, and that service with the Foundation is to be treated as service with the society.

Clause 23 confirms for the purposes of the Inland Revenue Acts the Foundation and the society are the same person and that a transaction entered into by the Foundation must be treated as having been entered into by both the society and the Foundation.

Clause 24 protects the name the "Royal New Zealand Foundation of the Blind".

Clause 25 confirms that the Crown is not liable to contribute to any debts or liabilities of the Foundation on incorporation.

Clause 26 repeals the Royal New Zealand Foundation for the Blind Act 1963 and those parts of the Act that are no longer needed once the Foundation becomes an incorporated society.

Clause 27 makes consequential changes to Acts and regulations listed in Schedules 1 and 2 by updating references to the Foundation's governing Act.

Rt Hon Wyatt Creech

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Preamble

- (1) The Royal New Zealand Foundation for the Blind is a body corporate constituted by the Royal New Zealand Foundation for the Blind Act 1963:
- (2) The Royal New Zealand Foundation for the Blind Act 1963 consolidates and amends the New Zealand Foundation for the Blind Act 1955 and its amendments:

- (3) The Foundation wishes—
- (a) to clarify its status as a body that is controlled primarily by, and operates for the benefit of, people who are blind and vision impaired:
 - (b) to modernise its structure, giving it characteristics of an incorporated society: 5
 - (c) to provide for the possible future registration of the Foundation as a society incorporated under the Incorporated Societies Act 1908:
- (4) The objects of this Act cannot be achieved without the authority of Parliament: 10

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Royal New Zealand Foundation of the Blind Act **2002**. 15

2 Commencement

- (1) **Section 1, this section, and Parts 1 and 2** come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council. 20
- (3) The Governor-General may make the order only if—
- (a) the Foundation has lodged with the Registrar rules that comply with section 6 of the Incorporated Societies Act 1908; and
 - (b) officers of the Foundation have been appointed under the rules. 25

**Part 1
Preliminary**

3 Interpretation

- (1) In this Act, unless the context otherwise requires,— 30
- Advisory Committee** means any Advisory Committee that is for the time being established under section 16 of the Royal New Zealand Foundation for the Blind Act 1963
- blind person** means any person in New Zealand (including the Cook Islands and Tokelau) who is without sight or who 35

otherwise through defective or limited vision requires, in the opinion of the Board, care, treatment, or assistance

Board means the Board of Trustees of the Royal New Zealand Foundation for the Blind

Executive Committee means the Executive Committee that is for the time being established under section 28 of the Royal New Zealand Foundation for the Blind Act 1963 5

Foundation means—

- (a) the Royal New Zealand Foundation for the Blind constituted under the Royal New Zealand Foundation for the Blind Act 1963; and 10
- (b) the Royal New Zealand Foundation of the Blind constituted under **section 8**

liabilities means liabilities, debts, charges, duties, obligations, whether present or future, whether actual or contingent, and whether payable to, or to be observed or performed in, New Zealand or elsewhere 15

property means real or personal property and includes—

- (a) choses in action and money; and
- (b) goodwill; and 20
- (c) rights, interests, and claims in or to property, whether arising from or accruing under, or created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, actual, contingent, or prospective 25

Registrar means the Registrar of Incorporated Societies under the Incorporated Societies Act 1908

registration means registration at an office of the Registrar of Incorporated Societies

rights means rights, powers, privileges, and immunities, whether actual, contingent, or prospective 30

rules means the rules of the Foundation prepared under **section 4** and adopted under **section 5**

society means the incorporated society registered under **Part 4**

Special Committee means the Special Committee that is for the time being established under section 28 of the Royal New Zealand Foundation for the Blind Act 1963 35

Trustee means a trustee appointed or elected to the Board of Trustees of the Royal New Zealand Foundation for the Blind

undertaking in relation to the Foundation, means the property, rights, and liabilities of the Foundation.

Part 2 Rules of Foundation

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| 4 | Rules of Foundation | 5 |
| (1) | As soon as practicable after the commencement of this section, the Board must prepare rules for the operation of the Foundation. | |
| (2) | The rules must comply with section 6 of the Incorporated Societies Act 1908. | 10 |
| 5 | Adoption of rules | |
| (1) | If the rules are adopted, they must be adopted by a special resolution. | |
| (2) | The following people are entitled to vote on the special resolution: | 15 |
| | (a) every blind person who is registered with the Foundation to receive services from the Foundation and who is of or over the age of 16 years: | |
| | (b) 1 parent or guardian of each blind person who is registered with the Foundation and who is under the age of 16 years. | 20 |
| (3) | The Board must take reasonable steps to ensure that every person who is entitled to vote may do so. | |
| (4) | The Board may conduct a postal vote on the special resolution. | 25 |
| (5) | The special resolution is passed if more than 50% of the valid votes cast are in favour of it. | |
| (6) | The rules come into force when Part 3 comes into force. | |
| 6 | Lodging of rules with Registrar | |
| (1) | If the rules are adopted under section 5 , the Board must deliver to the Registrar a copy of the special resolution and a copy of the rules. | 30 |
| (2) | If the Registrar is satisfied that the rules comply with section 6 of the Incorporated Societies Act 1908, the Registrar must, on payment of the fee prescribed for the incorporation of a society, retain and register the rules. | 35 |

- 7 Election of officers**
- (1) As soon as practicable after the Registrar registers the rules under **section 6(2)**, the Board must conduct an election in accordance with the rules, as if those rules were in force, to appoint the officers of the Foundation provided for in the rules. 5
- (2) The persons specified in **section 5(2)(a) and (b)** are entitled to nominate candidates and vote in the election for persons to fill the positions referred to in the rules of the Foundation as “the General Seats”.
- (3) Every person who is a member of an Advisory Committee but is not entitled to nominate candidates and vote under **subsection (2)** is entitled to nominate candidates and vote in the election for the person to fill the position referred to in the rules of the Foundation as “the Associates’ Seat”. 10

Part 3

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Royal New Zealand Foundation of the Blind

- 8 Constitution of Foundation**
- (1) There is a Foundation called the Royal New Zealand Foundation of the Blind.
- (2) The Foundation is a body corporate with perpetual succession. 20
- (3) The Foundation is the same body as the body known as the Royal New Zealand Foundation for the Blind existing immediately before the commencement of **this Part** under the Royal New Zealand Foundation for the Blind Act 1963.
- 9 Objects of Foundation are charitable** 25
- The objects of the Foundation are charitable.
- 10 Objects**
- The objects of the Foundation are—
- (a) to promote and provide for the independence, integration, enablement, and well-being of blind and vision impaired people in New Zealand society: 30
- (b) to provide, co-ordinate, and facilitate the provision of services, programmes, and activities in the fields of, and in relation to, the education, training, rehabilitation, recreation, equalisation of opportunities, enablement, 35

- support, assistance, and well-being of blind and vision impaired people:
- (c) to promote and encourage, by education, publicity, and otherwise, respect for, and observance of, the full human and civic rights of blind and vision impaired people: 5
 - (d) to promote and encourage the creation of a New Zealand society accessible to, and inclusive of, blind and vision impaired people so that they are able to live, work, and participate in all aspects of community life as valued and equal citizens: 10
 - (e) to promote and encourage a positive attitude towards blindness and vision impairment, not only amongst the public but also amongst blind and vision impaired people: 15
 - (f) to encourage and assist blind and vision impaired people to achieve personal independence and to realise their full potential in, and for the benefit of, society:
 - (g) to encourage and assist blind and vision impaired people with additional disabilities to live useful and dignified lives according to their personal choice: 20
 - (h) to promote equal opportunities for blind and vision impaired people and their ability to enjoy and exercise the same fundamental rights, privileges, and responsibilities as all other New Zealanders: 25
 - (i) to promote and encourage the elimination of barriers to the dignified participation and use by blind and vision impaired people in, and of, mainstream activities, structures and facilities, and to social and physical environments which preserve and enable personal integrity and choice and which recognise the value and contribution of all citizens: 30
 - (j) to promote and encourage open and convenient access and use by blind and vision impaired people to, and of, all programmes, services, buildings and facilities designed or intended for public use including transportation, information and telecommunications, education, work, training opportunities, and creative leisure: 35
 - (k) to promote and encourage the creation of opportunities for blind and vision impaired people to contribute to the 40

economic, social, political, and cultural life of the community:

- (l) to assist State and civic agencies to fulfil their obligations to blind and vision impaired people as full citizens: 5
- (m) to consult and co-operate with other persons and organisations concerned with the well-being of blind and vision impaired people and the prevention, treatment, amelioration, or cure of blindness or vision impairment: 10
- (n) to promote and encourage programmes that help in raising the awareness, and minimise the incidence, of preventable blindness:
- (o) to give particular recognition to the principles of the Treaty of Waitangi and their application to the governance and services of the Foundation: 15
- (p) to do all such other things as are incidental or conducive to the attainment of any of the objects set out in **paragraphs (a) to (o)**.

11 Application of Incorporated Societies Act 1908 20

- (1) Subject to this Act, the Incorporated Societies Act 1908 applies—
 - (a) to the Foundation as if the Foundation were an incorporated society; and
 - (b) to the members and officers of the Foundation as if they were members and officers, respectively, of an incorporated society. 25
- (2) For the purposes of the Incorporated Societies Act 1908,—
 - (a) the rules lodged with the Registrar under **section 6** are the rules of the Foundation; and 30
 - (b) the Officers of the Foundation are appointed from time to time under the rules.
- (3) The Foundation may alter or add to the rules in accordance with the Incorporated Societies Act 1908.

12 Members of Foundation 35

- (1) On the commencement of **this Part**, each of the following persons becomes a member of the Foundation of the class referred to in the rules of the Foundation as a “Full Member”:

- (a) every blind person who is registered with the Foundation to receive services from the Foundation and who is of or over the age of 16 years:
- (b) 1 parent or guardian of each blind person who is registered with the Foundation and who is under the age of 16 years. 5
- (2) On the commencement of **this Part**, every person who is a member of an Advisory Committee, but who does not qualify to be a Full Member under **subsection (1)**, becomes a member of the Foundation of the class referred to in the rules of the Foundation as an “Associate Member”. 10
- (3) After the commencement of **this Part**, a person becomes a member, or ceases to be a member, in accordance with the rules.
- 13 Transitional provisions** 15
- On the commencement of **this Part**,—
- (a) every Trustee of the Foundation vacates his or her office; and
- (b) the following are disestablished and abolished:
- (i) every Electing Committee appointed under section 7 of the Royal New Zealand Foundation for the Blind Act 1963: 20
- (ii) every Advisory Committee:
- (iii) every Executive Committee and every Special Committee established under section 28 of that Act: 25
- (iv) every Appeal Board appointed under section 22 of that Act; and
- (c) all bylaws in effect under section 27 of the Royal New Zealand Foundation for the Blind Act 1963 are revoked. 30

Part 4

Conversion to incorporated society

- 14 Foundation may decide to be registered as incorporated society** 35
- The members of the Foundation may, by resolution passed in accordance with the rules, decide to apply to be registered as an incorporated society under the Incorporated Societies Act 1908.

- 15 Application for registration**
The Foundation may deliver to the Registrar a copy of the Foundation's resolution and an application for incorporation in accordance with section 7 of the Incorporated Societies Act 1908. 5
- 16 Registrar to register Foundation as incorporated society**
If the Registrar is satisfied that those documents comply with the requirements for registration and with this Act, he or she must, on payment of the fee prescribed for the incorporation of a society, register the society under section 8 of the Incorporated Societies Act 1908. 10
- 17 Undertaking of Foundation belongs to society**
On the registration of the society, the undertaking of the Foundation belongs to, and vests in, the society.
- 18 Status of contracts and other instruments** 15
- (1) This section applies to contracts, agreements, guarantees, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices (whether in writing or not), entered into by, made with, given to or by, or addressed to the Foundation (whether alone or with another person) before the registration of the society and subsisting immediately before registration. 20
- (2) The instruments to which this section applies are, on and after the registration of the society, binding on, and enforceable by, against, or in favour of the society, as if the society and not the Foundation had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed. 25
- 19 References to Foundation in existing instruments** 30
A reference (express or implied) to the Foundation in an instrument made, given, passed, or executed before the registration of the society is a reference to the society on and after the registration of the society.

- 20 Continuation of legal and other proceedings**
- (1) An action, arbitration, proceeding, or a cause of action that was pending or that existed by, against, or in favour of the Foundation or to which the Foundation was a party before the registration of the society may, on and after the registration of the society, be continued and enforced by, against, or in favour of the society on and after the registration of the society. 5
- (2) It is not necessary to amend an application, notice, or other document to do so. 10
- 21 Effect of this Act and things done under it**
Nothing in this Act and nothing done under this Act—
- (a) places the Foundation, the society, or any other person in breach of contract or confidence or makes any of them liable for a civil wrong; or 15
- (b) entitles a person to terminate or cancel a contract or arrangement or to accelerate the performance of an obligation; or
- (c) places the Foundation, the society, or any other person in breach of an enactment, a rule of law, or a provision of a contract that prohibits, restricts, or regulates the assignment or transfer of property or the disclosure of information; or 20
- (d) releases a surety from an obligation; or
- (e) invalidates or discharges a contract or security. 25
- 22 Employees**
- (1) On the registration of the society, each employee of the Foundation becomes an employee of the society.
- (2) For the purposes of an enactment, rule of law, contract, or agreement relating to the employee, the contract of employment of the employee must be treated as unbroken and a period of service with the Foundation must be treated as a period of service with the society. 30
- (3) The terms and conditions of employment of the employee must remain the same as the terms and conditions of his or her employment with the Foundation immediately before the registration of the society, but they may be varied in the same manner. 35

- (4) An employee is not entitled to receive a payment or benefit because he or she has, as a result solely of this Act, ceased to be an employee of the Foundation.
- (5) This section applies despite anything else in this Act.

23 Taxes and duties

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For the purposes of the Inland Revenue Acts (as that term is defined in section 3 of the Tax Administration Act 1994),—

- (a) the Foundation and the society are the same person; and
- (b) a transaction entered into by, and an act of, the Foundation must be treated—
 - (i) as having been entered into by, or as an act of, the society; and
 - (ii) as having been entered into, or performed by, the society at the time it was entered into, or performed by, the Foundation.

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Part 5

Miscellaneous provisions

24 Protection of name

- (1) No company or other body may be incorporated or registered under a name that contains the words “Royal New Zealand Foundation of the Blind”, or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles such a name as to be likely to deceive.
- (2) Nothing in this section applies to the Foundation or to any other person who is associated with the Foundation.

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25 No Crown liability

The Crown is not liable to contribute towards the payment or satisfaction of any debts or liabilities of the Foundation on incorporation.

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26 Repeals

- (1) The Royal New Zealand Foundation for the Blind Act 1963 is repealed.

- (2) **Parts 2 and 3** are repealed on the incorporation of the Foundation as an incorporated society under **section 16**.

27 Consequential amendments

- (1) The enactments specified in **Schedule 1** are amended in the manner indicated in that schedule. 5
- (2) The regulation specified in **Schedule 2** is amended in the manner indicated in that schedule.
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Schedule 1
Enactments amended

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Disabled Persons Community Welfare Act 1975 (1975 No 122)
Omit from section 18(5) the expression “Royal New Zealand
Foundation for the Blind Act 1963” and substitute the expression 5
“Royal New Zealand Foundation of the Blind Act **2002**”.

Local Authorities (Members’ Interests) Act 1968
(1968 No 147)
Omit from Part II of the First Schedule the item relating to the Royal
New Zealand Foundation for the Blind. 10

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Schedule 2
Regulation amended

Copyright (General Matters) Regulations 1995 (SR 1995/146)
Omit from regulation 5(c) the expression “Royal New Zealand
Foundation for the Blind Act 1963” and substitute the expression 5
“Royal New Zealand Foundation of the Blind Act **2002**”.