

**Reprint
as at 1 April 1980**



Dilworth Trustees Act 1967

Private Act 1967 No 2
Date of assent 13 September 1967
Commencement 13 September 1967

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An Act to facilitate the administration of property and income of the trusts of the will of the late James Dilworth, of Remuera in the Province of Auckland, settler

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

Preamble

Whereas it is expedient to make better provision for the administration of the trusts and the remuneration of the Trustees and the honorarium of the Visitor of the will of the late James Dilworth, of Remuera in the Province of Auckland, settler, bearing date 15 November 1894 in relation to the Dilworth Ulster Institute as varied by the provisions of the Dilworth Trustees Act 1902, the Dilworth Trustees Act 1902 Amendment Act 1905, the Dilworth Trustees Acts Amendment Act 1912, section 25 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1914, section 21 of the Finance Act (No 2) 1940, and the Dilworth Trust Board Act 1946 respectively by conferring wider powers upon the Trustees in the selection of pupils for admission to the said Institute, and by increasing the remuneration of the Trustees and the honorarium of the Visitor, and by providing for the future authorisation and approval of the variation, modification, or extension of the powers of the Trustees or the mode of administration of the trusts by the High Court of New Zealand pursuant to the powers conferred upon it by the Charitable Trusts Act 1957 and any amendment thereof or any Act hereafter passed in substitution therefor and any other powers conferred upon the said court from time to time by any other Act notwithstanding that any such variation, modification, or extension may be at variance or in conflict with any of the provisions of any of the above-mentioned Acts or of sections 3, 4, 5 and 6:

And whereas the terms and conditions expressly or impliedly imposed upon the Trustees by the said will and the said Acts in the selection of boys as pupils for the said Institute are considered to be unduly restrictive having regard to the changed social conditions presently obtaining in New Zealand:

And whereas it is expedient that those terms and conditions should be varied in order that the Trustees may have wider discretionary powers in respect of the selection of pupils of the said Institute:

And whereas the aggregate remuneration of the Trustees was fixed at 600 pounds per annum under the provisions of the said will:

And whereas the said remuneration is now considered inadequate having regard to the depreciated purchasing power of money and the increased amount of time required to be expended by the Trustees in administering the trusts of the said will and ought to be increased:

And whereas the honorarium of the Visitor was fixed at 50 pounds per annum under the provisions of the said will:

And whereas the said honorarium is now considered inadequate having regard to the depreciated purchasing power of money and ought to be increased:

And whereas having regard to the changing social conditions within New Zealand the Trustees have from time to time considered it necessary or desirable that there be a variation or extension of the powers conferred upon them in relation to the trusts prescribed by the said will and that the mode of administration of those trusts be varied and it has been found necessary to promote legislation to that end:

And whereas it would be more convenient to provide that any variations or extensions of those powers or of the mode of the administration of those trusts which from time to time may be required should be submitted to the High Court of New Zealand for approval in the form of a scheme prepared pursuant to Part 3 of the Charitable Trusts Act 1957 rather than that the Trustees should be required to promote from time to time Acts of Parliament for such purposes as aforesaid:

And whereas the said Charitable Trusts Act 1957 provides adequate safeguards in that it provides for a report from the Attorney-General on any such scheme and that the said court has power to approve with or without modification or reject any such scheme.

Preamble: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

1 Short Title

This Act may be cited as the Dilworth Trustees Act 1967.

2 Interpretation

In this Act, unless the context otherwise requires,—

adopted child and **adoptive parent** shall have the meanings respectively ascribed to them in the Adoption Act 1955 or any Act passed in substitution therefor

court means the High Court of New Zealand and includes a Judge of that court

Institute means the Dilworth Ulster Institute

statutory provisions means the Dilworth Trustees Act 1902, the Dilworth Trustees Act 1902 Amendment Act 1905, the Dilworth Trustees Acts Amendment Act 1912, section 25 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1914, section 21 of the Finance Act (No 2) 1940, and the Dilworth Trust Board Act 1946

Trustees shall have the meaning assigned to that term in the Dilworth Trustees Act 1902

trust means the trusts of the will of the late James Dilworth deceased bearing date 15 November 1894

Visitor means the Visitor of the Institute referred to in the will

will means the will of the said James Dilworth deceased bearing date 15 November 1894.

Section 2 **court**: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

3 Rights of adopted children

In the provisions of the will which relate to the selection of boys to be pupils of the Institute and are referred to in the preamble to the Dilworth Trustees Act 1902 the expression **orphans or sons of persons of good character** shall be deemed to include adopted children of persons of good character, and the expression **children of parents in straitened circumstances** shall be deemed to include adopted children of an adoptive parent in straitened circumstances.

4 Selection of pupils

Notwithstanding anything to the contrary in the will or the statutory provisions contained or implied, the Trustees are hereby empowered in their absolute discretion to select as a

pupil of the Institute any boy who is otherwise qualified for selection notwithstanding that his parents or either of them has been divorced, or separated judicially, or otherwise, and notwithstanding that one of his parents has deserted his or her spouse, or any boy who is otherwise qualified for selection, notwithstanding that he is over the age of 10 years, if in any such case in the opinion of the Trustees the selection of the boy as a pupil of the Institute would be in the best interests of the general welfare of the said boy.

5 Remuneration of Trustees

The remuneration of the Trustees shall be fixed by the Trustees in each year:

provided that the aggregate remuneration paid to the Trustees in any 1 year shall not exceed the sum of \$6,000.

6 Honorarium of Visitor

The honorarium of the Visitor shall be fixed by the Trustees in each year:

provided that the honorarium in any 1 year shall not exceed the sum of \$200.

7 Application of Charitable Trusts Act 1957

- (1) In the event of the Trustees at any time or times finding it necessary or expedient that their powers should be extended or varied or that the mode of administration of the trusts be prescribed or varied or if any of the charitable purposes prescribed by the said will as varied by the statutory provisions become impossible, impracticable, or inexpedient, the Trustees may prepare a scheme under the provisions of Part 3 of the Charitable Trusts Act 1957 and any amendment thereof or any Act passed in substitution therefor and make application to the court for approval thereof in terms of the said provisions of the Act.
- (2) The court shall have jurisdiction under the Charitable Trusts Act 1957 and any amendment thereof or any Act passed in substitution therefor to consider any scheme referred to it pursuant to subsection (1) and may approve the scheme with or without modification and notwithstanding that anything in the

scheme so approved is at variance with or conflicts with any of the provisions in the statutory provisions and in sections 3, 4, 5, and 6; and the terms of any scheme so approved shall be valid to all intents and purposes notwithstanding anything in any such provisions as if the scheme had been contained in an Act.

8 Private Act

This Act is hereby declared to be a private Act.

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Notes

1 *General*

This is a reprint of the Dilworth Trustees Act 1967. The reprint incorporates all the amendments to the Act as at 1 April 1980, as specified in the list of amendments at the end of these notes. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Judicature Amendment Act 1979 (1979 No 124): section 12
