

**Reprint
as at 24 November 2009**



St John's College Trusts Act 1972

Private Act 1972 No 6
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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.

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An Act to declare the trusts upon which the St John's College Trust Board holds certain land and investments and to provide for the administration thereof

Preamble

Whereas the St John's College Trust Board, incorporated under the provisions of the Charitable Trusts Act 1957 (hereinafter called the **Trustees**) had vested in it the land and investments described in Schedule 1 (hereinafter referred to as the **college funds**), the land and investments described in Schedule 2 (hereinafter referred to as the **scholarship funds**), and the land and investments described in Schedule 3 (hereinafter referred to as the **widows and orphans endowment**):

And whereas some of the said land has been sold and the net proceeds thereof invested in other assets in the name of the Trustees:

And whereas in the preamble to the St John's College, Auckland, Removal Act 1883 the trusts upon which the

college funds are held were therein recited which said trusts had pursuant to the provisions of the Bishop of New Zealand Trusts Act 1858 been declared in a deed dated 18 August 1859 and made between the Right Reverend George Augustus Selwyn, Bishop of New Zealand of the one part, the Reverend John Frederick Lloyd, the Reverend John Coleridge Patterson, the Honourable Henry John Tancred, the Honourable William Kenny, and Theodore Minet Haultain, Esquire, of the second part:

And whereas in the said deed it was declared that the college funds were held upon trust, *inter alia*, for the education of candidates for holy orders, and for the instruction and training of the youth of both races in useful learning, and in moral and industrious habits, and for the education of all students therein in the principles of the Christian religion according to the doctrine and discipline of the Church of England:

And whereas for many years past the St John's College has been and still is a theological college for the education of candidates for holy orders in the Church of the Province of New Zealand commonly called the Anglican Church:

And whereas in view of the growing co-operation between the churches, the General Synod of the said Anglican Church is desirous that the said College should not be restricted to the education of candidates for ordination in the said Anglican Church but should become a general theological college for the education of candidates for ordination in the principles of the Christian faith:

And whereas by the provisions of section 3 of the St John's College Trust Act 1923 the Trustees were authorised and empowered at their discretion from time to time to apply the whole or such portion or portions as they thought fit of the income from the Scholarship Funds referred to in Schedule 1 of that Act for the general purposes of St John's College for a period of 20 years from the passing of that Act or for such longer period as might be directed from time to time by the said General Synod:

And whereas the said period of 20 years expired on 22 August 1943:

And whereas the said General Synod did on 11 November 1943 direct that the period during which the said funds might be so used be extended until the session of the Synod in 1952:
And whereas the said General Synod did on 12 March 1952 direct that the said period be extended until the conclusion of the second ordinary session of the General Synod after 1952 which period expired at the conclusion of the session of the General Synod held in 1958, namely, 27 November 1958:

And whereas the said General Synod has not further directed that the said period be extended:

And whereas by virtue of section 2 of the St John's College Trust Amendment Act 1957 the Trustees were empowered at their discretion to apply the whole or such part of the income of the scholarship funds as they thought fit in or towards the maintenance and support of candidates for holy orders of the Church of the Province of New Zealand while taking a course for a degree or diploma at any university or university college within New Zealand:

And whereas since the said 27 November 1958 the Trustees have applied part of the income of the scholarship funds towards the general purposes of the St John's College and the said General Synod desires that such past applications of income should be validated:

And whereas the said General Synod desires that the ambit of the trusts of the college funds and the scholarship funds be extended having regard to modern social and religious conditions and that the trusts of the college funds and the scholarship funds be consolidated and varied in this Act:

And whereas the trusts of the widows and orphans endowment created by the said Right Reverend George Augustus Selwyn have been administered by the Trustees:

And whereas the said General Synod is desirous that the St John's College Trust Board shall hereafter hold the funds of the widows and orphans endowment upon the trusts hereinafter declared in section 10:

And whereas the said General Synod is desirous that the powers of investment in respect of all the aforesaid trusts be extended:

And whereas having regard to the changing social and religious conditions in 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 and that the method of administration of the aforesaid 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 the method of administration of the aforesaid trusts, including the widows and orphans endowment, 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 Charitable Trusts Act 1957 provides adequate safeguards in that it provides for a report from the Attorney-General on any such scheme and 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 St John's College Trusts Act 1972.

2 Interpretation

In this Act, unless the context otherwise requires,—

Anglican Church means the Church of the Province of New Zealand, including the Dioceses of Melanesia and Polynesia

candidate for ordination means a person intending to be ordained into the Ministry of such Christian church as may from time to time be nominated by General Synod

College means the College of St John the Evangelist now situated in Auckland and wheresoever hereafter from time to time the same may be situated

college funds means the land and investments described in Schedule 1 or other assets representing the same

General Synod means the General Synod of the Anglican Church

Governors means the body of persons who are from time to time appointed pursuant to the provisions of the Canons of the Anglican Church to be the Governors of the College

scholarship funds mean the land and investments described in Schedule 2 or other assets representing the same

the Trustees means the St John's College Trust Board incorporated under the Charitable Trusts Act 1957

widows and orphans endowment means the land and investments described in Schedule 3 or other assets representing the same.

Part 1

St John's College

3 St John's College trusts

- (1) The college funds shall hereafter be held upon the following trusts:
- (a) for or towards the maintenance and support of the College:
 - (b) for the education in the College of candidates for ordination:
 - (c) for the costs of the education of students of all races in such manner and in such places as the General Synod shall from time to time direct so long as such education includes instruction in the principles of the Christian faith.

4 Rules and regulations

The Governors may from time to time—

- (a) with the prior authority of the General Synod make rules and regulations for the College relating to the admission of students, the constitution and government of the College, the course or courses of study to be followed therein, for ensuring the good order and efficiency thereof, and otherwise for securing the due execution of the trusts and purposes aforesaid, and may

with the like authority revoke in whole or in part or amend any such rule or regulation:

- (b) delegate any 1 or more of the powers conferred on them by this Act to a subcommittee or subcommittees appointed by them, consisting of 1 or more Governors and such other persons (if any) as the Governors think fit, and may rescind any delegation or appointment so made.

5 Buildings

The Trustees, with the prior authority of the General Synod, may—

- (a) demolish any existing buildings of the College:
- (b) add to or extend existing buildings of the College or erect new buildings—

and for such purposes may expend the income as well as the capital of the college funds.

**Part 2
Scholarship funds**

6 Validations of certain payments

All payments or applications of income derived from the scholarship funds made by the Trustees since 27 November 1958 for the general purposes of the College are hereby validated and declared to have been lawful.

7 Trust of scholarship funds

- (1) The Trustees shall hold the scholarship funds upon and for the respective trusts and purposes respectively set opposite to the respective lands and investments set forth in Schedule 2.
- (2) Notwithstanding the provisions of subsection (1), it shall be lawful for the Trustees, with the prior authority of the General Synod, from time to time to apply the whole or such portion or portions of the income of the scholarship funds as they think fit in or towards the maintenance and support of candidates for ordination or persons who have been ordained (and their dependents respectively) while taking a course of study for a

degree or diploma at any university or university college or any other course of study within New Zealand or elsewhere.

- (3) Notwithstanding the provisions of subsection (1), the Trustees may, with the prior authority of the General Synod, out of the income (including accumulated income, whether it was accumulated before or after the passing of this Act) of the scholarship funds finance in whole or in part the teaching of theology at any university or university college or other institution within New Zealand.

8 Disposition of income

Notwithstanding anything in this Part, if in any year or years any part of the income of the scholarship funds shall not, in the opinion of the Governors, be required for the purposes of subsection (1) of section 7 it shall be lawful for the Trustees to apply the whole or such part or parts of the surplus income of the scholarship funds as they think fit for any 1 or more of the purposes set forth in section 3, in such manner as they think fit:

provided that, before so applying the same, the Trustees shall give prior notice of their intention so to do the General Synod and obtain its consent to such application.

Part 3

Widows and orphans endowment

9 Widows and orphans endowment

- (1) The Trustees shall hereafter hold the widows and orphans endowment upon trust for and towards the support of clergymen who have retired or who are in need of financial assistance and for and towards the support of the widows and orphans of deceased clergymen, and, subject to section 10, after deducting costs incurred by the Trustees in connection with the said funds, the Trustees shall pay the net available income to the New Zealand Anglican Church Pension Fund Board established by the General Synod or, if directed by the General Synod, to such other Trustees as shall hereafter be appointed by the General Synod to distribute such income in accordance with the foregoing trusts and in accordance with the rules gov-

erning the eligibility of such clergymen or widows or orphans (if any) which the General Synod may from time to time determine.

- (2) For the purposes of this section the term **clergymen** means persons who have been ordained and who have served in the Anglican Church.

Part 4

Powers of Trustees

10 Power to accumulate

The Trustees may from time to time, with the consent of the New Zealand Anglican Church Pension Fund Board or of such other Trustees as may be appointed by the General Synod pursuant to section 9 accumulate any part or parts of the income arising from the widows and orphans endowment and add such accumulation to the capital thereof, including any past accumulations, as the Trustees think fit.

11 Powers of Trustees

- (1) In addition to and not in substitution for any powers howsoever conferred upon or vested in them, the Trustees may from time to time in respect of any land or investments at any time vested in them pursuant to the trusts of the College or the scholarship funds or the widows and orphans endowment—
- (a) with the prior authority of the General Synod, whether given generally or in respect of any particular area or areas of land, sell any land or any part or parts thereof:
 - (b) borrow money with or without security for any purpose or purposes of the said trusts:
 - (c) invest money held by the Trustees in the securities of any company, whether incorporated in New Zealand or elsewhere, which is officially listed on a registered exchange's securities market (within the meaning of section 2(1) of the Securities Markets Act 1988) and which comprise—
 - (i) ordinary or preference shares, stock or debentures (including debenture stock and bonds and

whether constituting a charge on assets or not);
or

- (ii) secured or unsecured notes, whether registered or unregistered, and whether conveying the right of conversion to shares or not,—

but excluding—

- (iii) any shares, stock, debentures, or notes, not fully paid up, except such as are, by the terms of issue, required to be fully paid up within 12 months after the date of issue; and
- (iv) any notes, or any debentures, under or in respect of which any liability to make further advances or payments will remain after the expiration of 12 months after the date of acquisition:

provided that an investment under this paragraph shall not be made in the securities of any company—

- (i) unless the company has a paid-up share capital of \$1,000,000 or more; and
 - (ii) if the company has not paid a dividend of at least 5% in each complete financial year of the company the last day of which occurred within 5 years before the date of the investment, on all ordinary stock and shares issued in that financial year after the dividend was declared and any stock or shares on which (in terms of their issue) no dividend or dividends of less than 5% are payable in the financial year:
- (d) delegate any 1 or more of the powers conferred on them by this Act to a subcommittee or subcommittees appointed by them consisting of 1 or more of the trustees and may rescind any delegation or appointment so made.

- (2) For the purposes of subparagraph (ii) of the proviso to paragraph (c) of subsection (1), a company formed to take over the whole of the business of another company or other companies shall be deemed to have paid the requisite dividend in any financial year, if such a dividend was paid by each such other company in each financial year of that company any part of

which fell within the relevant financial year of the company taking over the business.

- (3) Before making any investment pursuant to paragraph (c) of subsection (1), the Trustees shall first obtain and consider proper advice in writing as to the suitability of the proposed investment from a person—
- (a) who is reasonably believed by the Trustees to be qualified by his ability in and practical experience of financial matters; and
 - (b) who is not a member of the St John's College Trust Board, or an officer or employee of that Board or of the company in which it is proposed to make such investment.

Section 11(1)(c): amended, on 24 November 2009, by section 23(1) of the Securities Markets Amendment Act 2009 (2009 No 54).

Section 11(1)(c): amended, on 1 December 2002, by section 30 of the Securities Markets Amendment Act 2002 (2002 No 44).

12 Leasing powers

- (1) The Trustees are hereby declared to be a leasing authority within the meaning of the Public Bodies Leases Act 1969.
- (2) The Trustees may, on such terms and conditions as they think fit, grant a lease of any area or areas of land for any period not exceeding 21 years at a nominal rent of a peppercorn, on payment to the Trustees of a premium by the proposed lessee, and the Trustees may include in any such lease a provision for payment of the premium by instalments and may confer on the lessee an option to require at the end of the term the grant of a new lease under the provisions of the Public Bodies Leases Act 1969.
- (3) The Trustees may at any time accept a surrender of any lease whensoever and howsoever granted upon such terms and conditions as they think fit.

13 Delegation by General Synod

The General Synod may at any time delegate the functions, powers, and duties conferred or imposed on it by this Act to any person or body of persons, whether incorporated or not, and may at any time rescind any delegation so made.

14 Repeals and savings

- (1) The enactments specified in Schedule 4 are hereby repealed.
- (2) Any act or thing made or done by the Trustees pursuant to any of the provisions of the enactments specified in the said Schedule 4 insofar as the same are capable of taking effect at the time of the passing of this Act shall be deemed to have been made or done by the Trustees or the Governors under the provisions of this Act.

15 Private Act

This Act is hereby declared to be a private Act.

Schedule 1

Name of Trust, and lands and funds affected	Trusts upon which lands and funds held
Allot 38a Crown Grant to Bishop, 30 September 1845 (62a.0r.7p.)	Upon trust for the College of St John the Evangelist near Auckland.
Allot 39a Crown Grant to Bishop, 30 September 1845 (32a.0r.0p.)	
Allot 33 Pt Conveyance from John McRitchie, 21 October 1845 (35a.0r.0p.)	
Allot 33 Pt Conveyance from Frederick Whitaker, 17 October 1844 (63a.0r.6p.)	
Allot 34 Pt Conveyance from Frederick Whitaker, 17 October 1844 (97a.3r.16p.)	
Allot 35 Pt Conveyance from Frederick Whitaker, 17 October 1844 (106a.2r.31p.)	
Allot 36 Pt Conveyance from Frederick Whitaker, 17 October 1844 (102a.2r.10p.)	
Allot 37 Pt Conveyance from David Rough, 30 July 1850 (1a.0r.05p.)	
Allot 37 Pt Conveyance from David Rough, 30 July 1850 (1a.1r.14p.)	
Allot 2 Conveyance, Watts, 9 September 1845 (60a.3r.23.5p.)	

Schedule 2

Name of Trust, and lands and funds affected	Trusts upon which lands and funds held
<p>1 Consolidated Scholarships Allotments 45, 46, 47, and 12A of Section 12, District of Tamaki, containing 160 acres 3 roods 6 perches; Allotment 26A of Section 12, District of Tamaki, containing 17 acres and 16 perches; part Allotment 37, District of Tamaki, containing 45 acres 1 rood 31 perches; part Allotment 37, District of Tamaki, containing 13 acres; Allotment 48, District of Tamaki, containing 21 acres; part Allotment 11, District of Tamaki, containing 20 acres; part Section 1, District of Tamaki, containing 5 acres 3 roods 20 perches; capital sum of £2,500 invested at interest.</p>	<p>Upon trust for and towards the maintenance and support of scholars of the College of St John the Evangelist, near Auckland, to be called after the names of the benefactors in such manner that the first elected of such scholars shall be called a Whytehead Scholar, the second an Appleyard Scholar, the third a Meyrick Scholar, the fourth an Abraham Scholar, the fifth an Eton Scholar, and again the sixth a Whytehead Scholar, and so on in succession in the order before stated, subject to all such rules and regulations as may from time to time be made by or by authority of the said General Synod concerning the election of such scholars, the number of such scholars to be maintained, the yearly sum to be allowed to each and otherwise for securing the due execution of the trusts and purposes aforesaid; and until such rules and regulations shall be made concerning the matters aforesaid, subject to all such rules and regulations as may from time to time be made concerning the same by the trustees for the time being; and, in case the rents, issues, and profits of the said lands shall exceed the amount needed for the support and maintenance of such scholars, or in case there shall be no such scholar, then upon trust to pay and apply the same towards the support and maintenance of the said College of St John, and for the general purposes thereof.</p>
<p>2 Lady Margaret Scholarships Part of Farm Section No 2, District of Tamaki, containing 60 acres 3 roods 8 perches.</p>	<p>Upon trust for and towards the endowment of scholarships in the College of St John the Evangelist, near Auckland, to be called by the name of Lady Margaret.</p>

Name of Trust, and lands and funds affected	Trusts upon which lands and funds held
<p>3 Griffin Laing Scholarships Part of Allotment 37, District of Tamaki, containing 69 acres and 19 perches; Allotment 56, District of Tamaki, containing 8 perches.</p>	<p>Upon trust for and towards the maintenance of a scholar or scholars of the College of St John the Evangelist, near Auckland, to be called Griffin Laing Scholars; and, in case the rents, issues, and profits of the said lands shall exceed the amount needed for the support and maintenance of such scholars, or in case there shall be no such scholar, then upon trust to pay and apply the same for and towards the support and maintenance of the said college.</p>
<p>4 Maria Blackett Scholarships Part of Allotment 1 of Section 1 of the City of Auckland, containing 8.13 perches.</p>	<p>Upon trust for the endowment of scholarships in the College of St John the Evangelist, in Auckland, to be called by the name of Maria Blackett, or otherwise towards the support and maintenance of the said college.</p>

Schedule 3

Name of Trust, and lands and funds affected

Widows' and Orphans' Endowment—Part of Farm Section 5, District of Tamaki, containing 111 acres 1 rood 5 perches; capital sum of £1,712 1s. 9d. invested at interest.

Trusts upon which lands and funds held

Upon trust for and towards the support and maintenance of superannuated and invalid clergymen of the Branch of the United Church of England and Ireland in New Zealand, and the widows and orphans of deceased clergymen—preference being given to those clergymen and widows who shall have been in connection with the College of Saint John the Evangelist, near Auckland, or shall be willing to reside within the college estate and to discharge such duties as may be assigned to them by the governing body of the said college—to pay and apply the said rents, issues, and profits to the purposes and subject to the preference aforesaid and in such proportion, under such conditions, and in such manner as to the Board shall seem fit; and, in case the rents, issues, and profits shall exceed the amount needed for the support and maintenance of such persons as aforesaid, or in case there shall be no such person entitled thereto, then upon trust for the support and maintenance of the said College of Saint John, and for the general purposes thereof.

Schedule 4
Enactments repealed

St John's College Auckland Removal Act 1883 (1883 No 1 (P))

St John's College Trust Act 1923 (1923 No 1 (P))

St John's College Trust Amendment Act 1957 (1957 No 3 (P))

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Notes**1 General**

This is a reprint of the St John's College Trusts Act 1972. The reprint incorporates all the amendments to the Act as at 24 November 2009, 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)*

Securities Markets Amendment Act 2009 (2009 No 54): section 23(1)

Securities Markets Amendment Act 2002 (2002 No 44): section 30

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