

DRAFT FOR CONSULTATION

Carter Trust Amendment Bill

Private Bill

Explanatory note

General policy statement

The objects of the Bill are to—

- amend the will of the late Charles Rooking Carter to enable the winding up of the charitable trust (the **Carter Trust**) established under the will and the making of distributions by Public Trust as executor of the will; and
- clarify the legal liability of Public Trust in respect of the Carter Trust; and
- enable the Carter Society Incorporated (the **Carter Society**) to amend its rules without the approval of the Minister of Health.

Clause by clause analysis

Clause 1 states the Title of the Bill.

Clause 2 states that the Bill comes into force on the day after the date on which it receives Royal assent, except for *clauses 7 and 8*, which come into force 6 months after Royal assent.

Clause 3 states that the Bill amends the Carter Trust Act 1961 (the **principal Act**).

Clause 4 amends section 2, which defines terms used in the principal Act, to insert definitions of Carter Trust and will. It also amends section 2 to remove some definitions that are no longer required due to the other amendments made by the Bill.

Clause 5 repeals sections 3 to 6, which provide for leasing powers in relation to the trust lands, the sale of the Carter Homes, and the payment of capital to the Carter Society. Those sections are spent or no longer necessary because of other amendments made by the Bill.

Clause 6 replaces section 7, which deals with the disposal of trust income, with *new sections 7, 7A, and 7B*.

New section 7 amends the will of Charles Rooking Carter to enable the termination of the Carter Trust in accordance with *new section 7A* and to provide for the limitation of liability of Public Trust in accordance with *new section 7B*.

New section 7A sets out requirements for Public Trust to terminate the Carter Trust by distributing \$50,000 to the Anglican Parish of Carterton, with the remaining trust funds being distributed to the Carter Society. The amount distributed to the Parish is an agreed amount in relation to the amounts previously payable to the Anglican Vicar of Carterton under the terms of the original will.

The termination of the trust must occur within 6 months of the Bill being enacted, to enable final accounts to be prepared following the enactment of the Bill. Public Trust is also required to notify the Department of Internal Affairs (Charities Services) of the termination.

New section 7B provides that Public Trust is not liable for the consequences of any act or omission in its duties as trustee under the will, unless the act or omission is attributable to dishonesty, wilful misconduct, or gross negligence. This reflects the requirements of section 40 of the Trusts Act 2019.

Clause 7 repeals sections 8 to 11, which provide for Public Trust to make further capital payments to the Carter Society and deal with the use and disposal of the trust lands, including the Carter Reserve. Those sections are no longer necessary as a result of the termination of the Carter Trust and the disposal of the trust lands.

Clause 8 repeals sections 15 and 16, which deal with the payment of expenses in connection with the principal Act and provide for the transfer of assets from the Carter Homes Committee to the Carter Society. Those sections are no longer necessary as a result of the termination of the Carter Trust and are now spent.

Clause 9 repeals section 17, which requires the Minister of Health to approve amendments to the rules of the Carter Society. This enables the Society to change its rules in accordance with its own procedures.

Mike Butterick

MP name

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Preamble

- (1) Public Trust is the trustee of a charitable trust (the **Carter Trust**) established by the will of the late Charles Rooking Carter (the **will**):
- (2) The Carter Society Incorporated (the **Society**) is a registered charity that operates the Carter Court Care Home:
- (3) The Carter Trust Act 1961 enacted provisions affecting the will, the Carter Trust, and the Society:
- (4) The Carter Trust holds investments and the income derived from those investments is applied in making distributions to the Society for charitable purposes:

- (5) The Carter Trust pays an annuity to the Anglican Vicar of Carterton in accordance with the terms of the will:
- (6) Public Trust and the Society seek a winding up of the Carter Trust and the making of distributions to the Society and to the Anglican Parish of Carterton in respect of the annuity:
- (7) The primary objects of this amendment Act are to amend the will so as to enable the winding up of the Carter Trust and to permit the Society's rules to be amended without the approval of the Minister of Health:
- (8) The secondary objects of this amendment Act are to enable the making of distributions:
- (9) The primary objects of this amendment Act cannot be achieved without legislation:
- (10) Public Trust considers it expedient for provisions to be enacted to enable the making of the proposed distributions, being the secondary objects of this amendment Act, to be made by this amendment Act:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Carter Trust Amendment Act **2025**.

2 Commencement

- (1) This Act comes into force on the day after Royal assent.
- (2) However, **sections 7 and 8** come into force 6 months after Royal assent.

3 Principal Act

This Act amends the Carter Trust Act 1961.

4 Section 2 amended (Interpretation)

- (1) In section 2, insert in their appropriate alphabetical order:

Carter Trust means the charitable trust established by the will
will means the will dated 6 June 1896 of the late Charles Rooking Carter

- (2) In section 2, repeal the definitions of **Carter Homes**, **Carter Homes Committee**, **Carter Reserve**, and **trust lands**.

5 Sections 3 to 6 repealed

Repeal sections 3 to 6.

6 Section 7 replaced (Disposal of income)

Replace section 7 with:

7 Will amended

The will is to be treated as amended to provide for—

- (a) the termination of the Carter Trust as set out in **section 7A**; and
- (b) the limitation of liability of Public Trust as set out in **section 7B**.

7A Termination of Carter Trust

- (1) On the termination date, Public Trust must distribute the trust fund as follows:
 - (a) \$50,000 to the Anglican Parish of Carterton; and
 - (b) the balance of the trust fund to the Society.
- (2) The termination date must be within 6 months of the commencement of this section.
- (3) Public Trust must inform the regulator of the termination of the Carter Trust within 2 weeks of the termination date.
- (4) In this section,—

regulator means the chief executive as defined in section 4(1) of the Charities Act 2005

termination date means a day determined by Public Trust in accordance with **subsection (2)**

trust fund means the balance of the trust fund of the Carter Trust after Public Trust has deducted its reasonable expenses.

7B Liability of Public Trust

Public Trust is not liable for the consequences of any acts or omissions in carrying out its duties as trustee under the will unless that act or omission is attributable to its—

- (a) dishonesty;
- (b) gross negligence;
- (c) wilful commission of a breach of trust.

7 Section 8 to 11 repealed

Repeal sections 8 to 11.

8 Section 15 and 16 repealed

Repeal sections 15 and 16.

9 Section 17 repealed (Society's rules)

Repeal section 17.