

CHILDREN'S HEALTH CAMPS BOARD DISSOLUTION BILL

EXPLANATORY NOTE

General Policy Statement

The purpose of this bill is to dissolve the Children's Health Camps Board, which is to become a foundation constituted by trust deed under Part II of the Charitable Trusts Act 1957. The board is presently constituted under the Children's Health Camps Act 1972, and it is accordingly proposed to repeal that Act.

The existing statutory framework is no longer appropriate for the board. Children's health camps perform a substantial and important function for the health and well being of children in the community. The administrative and financial framework needs to operate in a clear and flexible manner, but that is inhibited by the present restrictive and detailed legislative requirements. These drawbacks will be remedied by repealing the 1972 Act, establishing the board as a private charitable foundation administered by a board of trustees, and making the necessary changes to the associated administrative arrangements.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement of the bill. The bill comes into force on the day after the date on which it receives the Royal assent.

Clause 2 defines terms used in the bill. They include "foundation", which is defined to mean the foundation established by trust deed signed on 31 March 1999 and operating under the name Children's Health Camps—The New Zealand Foundation for Child and Family Health and Development.

Clause 3 dissolves the Children's Health Camps Board which was established by the Children's Health Camps Act 1972. On and from the date on which the Act comes into force (the commencement day), the board is dissolved, as is every camp committee and district committee that was also established under that Act. The Children's Health Camps Fund and any other real and personal property, and all rights and liabilities, of the board and committees vest in the foundation. All proceedings pending by or against the board may be carried on, completed, or enforced against the foundation. *Clause 3* also provides a mechanism for the registration of the estate or interest of the board in any land in the name of the foundation, by application in writing to the appropriate District Land Registrar.

Clause 4 provides that members of the board, a camp committee, and a district committee are deemed to vacate office on the commencement day. Members are not entitled to compensation for losing office solely as a result of the bill.

Clause 5 provides that a person who, immediately before the commencement day, is an officer or employee of the board becomes, on the commencement day, an officer or employee of the foundation. The employment contract of an employee of the board who is transferred to the foundation is deemed to be unbroken, and the employee is not entitled to receive any payment or benefit for redundancy or otherwise by reason of the transfer effected by the bill.

Clause 6 provides that for the purposes of the imposition or collection of any duty, levy, rate, tax or other similar charge from the commencement day the board and the foundation are deemed to be the same person. The clause also deems every transaction or act entered into or performed by the board before the commencement day to have been entered into or performed by the foundation.

Clause 7 provides that as soon as reasonably practicable after the commencement day, the Secretary of the board must arrange for a final report of the board to be completed. The report must describe the board's operations for the period beginning on 1 July immediately preceding the commencement day and ending with the day immediately preceding the commencement day, and be accompanied by a copy of the board's accounts for that period certified by the Audit Office.

Clause 8 makes consequential provision for the Trustee Act 1956 to apply to the foundation, subject to the provisions of the bill.

Clause 9 preserves the emblem of the King George the Fifth Memorial Children's Health Camps Federation, as the emblem of the foundation. The clause prohibits the use of that emblem for commercial purposes without the foundation's prior written consent. Every person who contravenes the prohibition commits an offence punishable on summary conviction to a fine not exceeding \$200.

Clause 10 repeals the enactments specified in Schedule 1.

Clause 11 consequentially amends the enactments specified in Schedule 2 in the manner indicated in that schedule. The clause also provides for a consequential amendment to Regulation 4 of the Health (Retention of Health Information) Regulations 1996 (S.R. 1996/343).

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CHILDREN'S HEALTH CAMPS BOARD DISSOLUTION

ANALYSIS

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A BILL INTITULED

An Act to—

- 5 **(a) Dissolve the Children's Health Camps Board; and**
 (b) Transfer its assets and liabilities to a foundation
 incorporated under Part II of the Charitable
 Trusts Act 1957; and
 (c) Provide for incidental matters

BE IT ENACTED by the Parliament of New Zealand as follows:

10 **1. Short Title and commencement—**(1) This Act may be cited as the Children's Health Camps Board Dissolution Act 1999.

 (2) This Act comes into force on the day after the date on which it receives the Royal assent.

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

 "Board" means the Children's Health Camps Board established by section 3 of the Children's Health Camps Act 1972:

“Camp committee” means a camp committee established under section 16 of the Children’s Health Camps Act 1972:

“Commencement day” means the day on which this Act comes into force: 5

“District committee” means a district committee established under section 19 of the Children’s Health Camps Act 1972 by a camp committee:

“Fund” means the Children’s Health Camps Fund established by section 26 of the Children’s Health Camps Act 1972: 10

“Foundation” means the Children’s Health Camps—The New Zealand Foundation for Child and Family Health and Development to be incorporated as a charitable trust under Part II of the Charitable Trusts Act 1957. 15

3. Dissolution of board and committees—(1) On and from the commencement day,—

(a) The board is dissolved; and
(b) Every camp committee and district committee is dissolved; and 20

(c) The fund vests in the foundation; and
(d) All real and personal property, and rights and liabilities, of the board and of every camp committee and district committee vest in the foundation; and 25

(e) All proceedings pending by or against the board may be carried on, completed, or enforced by or against the foundation.

(2) A District Land Registrar must, on written application under common seal of the foundation, and on payment of the prescribed fee,— 30

(a) Register the foundation as the proprietor, in substitution for the board, of the estate or interest of the board in any land that is incorporated in the register or otherwise registered in the Land Registry Office of the land registration district concerned and that is vested in the foundation under this Act; and 35

(b) Make such entries in the register and on any outstanding documents of title and generally do all such things as may be necessary to give effect to this section. 40

4. Vacation of office by board members and committee members—(1) A person who, immediately before the

commencement day, held office as a member of the board is deemed to vacate that office on the commencement day.

5 (2) A person who, immediately before the commencement day, held office as a member of a camp committee or district committee is deemed to vacate that office on the commencement day.

(3) A person who vacates office solely as a result of this Act is not entitled to compensation for loss of the office.

10 **5. Board employees deemed to be employees of foundation—**(1) A person who, immediately before the commencement day, is an officer or employee of the board becomes, on the commencement day, an officer or employee of the foundation.

15 (2) The employment contract of an employee of the board who is transferred to the foundation solely as a result of this Act is deemed to be unbroken.

20 (3) An employee of the board who is transferred to the foundation solely as a result of this Act is not entitled to receive any payment or benefit for redundancy or otherwise simply because that employee has ceased to be an employee of the board by reason of that transfer.

25 **6. Taxes, duties, etc—**For the purposes of any enactment specified in the Schedule of the Tax Administration Act 1994, or imposing, or providing for the imposition or collection of, any duty, levy, rate, tax, or other similar charge,—

(a) On and after the commencement day, the board and the foundation are deemed to be the same person; and

30 (b) Every transaction or act entered into or performed by the board before the commencement day is deemed to have been entered into or performed by the foundation.

7. Final report of board—(1) As soon as reasonably practicable after the commencement day, the Secretary must arrange for a final report of the board to be completed.

35 (2) The report must—

(a) Describe the board's operations for the period beginning on 1 July immediately preceding the commencement day and ending with the day immediately preceding the commencement day; and

40 (b) Be accompanied by a copy of the board's accounts for that period certified by the Audit Office.

(3) In this section, "Secretary" means the person who held office as Secretary of the board immediately before the commencement day.

8. Foundation subject to Trustee Act 1956—Subject to this Act, the Trustee Act 1956 applies to the foundation. 5

9. Protection of emblem—(1) Despite the revocation of the Health Camps Federation Emblem Order 1954, the emblem of the King George the Fifth Memorial Children's Health Camps Federation is to be the emblem of the foundation. 10

(2) No person may,—

(a) For the purposes of sale, apply or cause to be applied to any article the emblem of the foundation or any colourable imitation of that emblem without the prior written consent of the foundation; or 15

(b) Knowing that the emblem of the foundation or any colourable imitation of that emblem has been applied to any article without the prior written consent of the foundation, sell that article or cause it to be sold, or offer or expose that article for sale, or cause it to be offered or exposed for sale. 20

(3) Every person who contravenes **subsection (2)** commits an offence and is liable on summary conviction to a fine not exceeding \$200.

10. Enactments repealed—The enactments specified in **Schedule 1** are repealed. 25

11. Consequential amendments—(1) The enactments specified in **Schedule 2** are consequentially amended in the manner indicated in that schedule.

(2) Regulation 4 of the Health (Retention of Health Information) Regulations 1996 is amended by repealing paragraphs (e) and (f), and substituting the following paragraph: 30

"(e) Children's Health Camps—The New Zealand Foundation for Child and Family Health and Development, provided for in the **Children's Health Camps Board Dissolution Act 1999**." 35

(3) The regulations amended by **subsection (2)** may be amended as if the amendment effected by that subsection had been effected by Order in Council and not by that subsection. 40

SCHEDULES

SCHEDULE 1

Section 10

ENACTMENTS REPEALED

- 1959, No. 98—The Public Bodies Contracts Act 1959: So much of Part II of the Second Schedule as relates to the Children's Health Camps Board. (R.S. Vol. 27, p. 795.)
- 1968, No. 147—The Local Authorities (Members' Interests) Act 1968: So much of Part II of the First Schedule as relates to the Children's Health Camps Board. (R.S. Vol. 27, p. 463.)
- 1972, No. 21—The Children's Health Camps Act 1972. (R.S. Vol. 24, p. 97.)
- 1975, No. 9—The Ombudsmen Act 1975: So much of Part II of the First Schedule as relates to the Children's Health Camps Board; and so much of Part III of the First Schedule as relates to Camp Committees under the Children's Health Camps Act 1972. (R.S. Vol. 35, p. 469.)
- 1979, No. 59—The Local Government Amendment Act 1979: So much of Part III of the Third Schedule as relates to the Children's Health Camps Act 1972. (R.S. Vol. 25, p. 609.)
- 1982, No. 156—The Official Information Act 1982: So much of the First Schedule as relates to Camp Committees under the Children's Health Camps Act 1972. (R.S. Vol. 35, p. 403.)
- 1987, No. 174—The Local Government Official Information and Meetings Act 1987: Section 46 (8) (b); and so much of Part I of the Second Schedule and the Third Schedule as relates to Camp Committees under the Children's Health Camps Act 1972. (R.S. Vol. 35, p. 347.)
- 1988, No. 179—The Children's Health Camps Amendment Act 1988. (R.S. Vol. 24, p. 125.)
- 1991, No. 138—The Children's Health Camps Amendment Act 1991.
- 1992, No. 42—The Local Government Amendment Act 1992: Section 58 (6) (b); and so much of the First Schedule as relates to the Children's Health Camps Act 1972.
- 1993, No. 23—The Health Reforms (Transitional Provisions) Act 1993: So much of the Fourth Schedule as relates to the Children's Health Camps Act 1972.
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Section 11

SCHEDULE 2
CONSEQUENTIAL AMENDMENTS

Act	Amendments
1981, No. 47—The Flags, Emblems, and Names Protection Act 1981	By omitting from the first column of the Third Schedule the words “The Children’s Health Camps Act 1972: section 39”, and substituting the words “The Children’s Health Camps Board Dissolution Act 1999: section 9”.
1988, No. 97—The Rating Powers Act 1988	By omitting from clause 7 of Part II of the First Schedule the words “the Children’s Health Camps Board”, and substituting the words “Children’s Health Camps—The New Zealand Foundation for Child and Family Health and Development”.
1989, No. 24—The Children, Young Persons, and Their Families Act 1989	By omitting from subparagraph (iv) of paragraph (c) of the definition of the term “residence” in section 2 (1) the words “within the meaning of the Children’s Health Camps Act 1972”, and substituting the words “operated by Children’s Health Camps—The New Zealand Foundation for Child and Family Health and Development”.
1989, No. 80—The Education Act 1989 (R.S. Vol. 34, p. 17)	By omitting from paragraph (g) of section 308 (2) the words “within the meaning of the Children’s Health Camps Act 1972”, and substituting the words “operated by Children’s Health Camps—The New Zealand Foundation for Child and Family Health and Development”.
1994, No. 88—The Health and Disability Commissioner Act 1994	By omitting from paragraph (c) of the definition of the term “health care institution” in section 2, the words “within the meaning of the Children’s Health Camps Act 1972”, and substituting the words “operated by Children’s Health Camps—The New Zealand Foundation for Child and Family Health and Development”. By repealing paragraphs (e) and (f) of section 3, and substituting the following paragraph: “(e) Children’s Health Camps—The New Zealand Foundation for Child and Family Health and Development.”.