

[AS REPORTED FROM THE COMMITTEE ON THE BILL]

*House of Representatives, 17 November 1970.*

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

*Hon. Mr Riddiford*

## J. R. MCKENZIE TRUST AMENDMENT

[PRIVATE]

### ANALYSIS

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### A BILL INTITULED

#### An Act to amend the J. R. McKenzie Trust Act 1947

WHEREAS by deed bearing date the 12th day of February 1940 John Robert McKenzie of Christchurch, merchant,  
5 established certain charitable and educational trusts under the name of "The J. R. McKenzie Trust": And whereas the said trusts were varied by a private Act the Short Title of which is the J. R. McKenzie Trust Act 1947: And whereas certain provisions of the 1947 Act were further varied by a  
10 private Act the Short Title of which is the McKenzie Trusts Act 1954: And whereas the trust funds at the date hereof consist wholly of five hundred and sixty-six thousand (566,000) "B" ordinary shares of two dollars (\$2) each in the capital of a private company registered and incorporated under  
15 the name of Rangatira Pty. Limited: And whereas under section 2 of the J. R. McKenzie Trust Act 1947 (as amended by section 10 of the McKenzie Trusts Act 1954) the Board of Trustees is directed to use and apply the net annual

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income of the trust fund for the purposes set out in the said section, the net annual income being the balance of the annual income accruing to the trust funds after paying and discharging all costs, charges, and expenses properly incurred from time to time in relation to the administration of the said trusts: And whereas it is desirable that the Board of Trustees be empowered to retain a certain portion of the net annual income to provide capital growth of the trust funds thus improving the future income of the trust: And whereas it is also in the long-term interests of the trust that the Board of Trustees be empowered to treat as capital any dividend in respect of the shares in Rangatira Pty. Limited or in any other company in which any part of the trust funds may be invested from time to time where such dividend is declared to be paid out of capital reserves *(and/or)* or profits made on the sale of capital assets or both: And whereas it is expedient that the *(provision)* provisions of the J. R. McKenzie Trust Act 1947 should be further varied and amended in the manner hereinafter set forth: And whereas the above-mentioned powers cannot be attained except by legislation:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the J. R. McKenzie Trust Amendment Act 1970, and shall be read together with and be deemed part of the J. R. McKenzie Trust Act 1947 (hereinafter referred to as the principal Act).

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**2. Power for Board of Trustees to accumulate income**—The Board of Trustees is empowered, notwithstanding the provisions of the principal Act, to accumulate in any one year a portion not exceeding 20 per centum of the net annual income of the trust funds as it in its absolute discretion thinks fit to the intent that the income so accumulated shall not be capitalised unless the Board of Trustees so directs, but shall be carried forward, and shall be capable of being applied by the Board of Trustees in future years for any one or more of the purposes set out in section 2 of the principal Act, and in the meantime the Board of Trustees may invest the same or part thereof as it thinks fit with power nevertheless to the

*Struck Out*

Board of Trustees to direct at any time and from time to time that any part of the accumulated income be added to the capital of the trust funds.

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*New*

**2. Part of income may be accumulated—**(1) Notwithstanding anything in the principal Act (as amended by section 10 of the McKenzie Trusts Act 1954) or in the said deed bearing date the 12th day of February 1940, the Board  
10 of Trustees may in any year accumulate such portion, not exceeding in any one year 30 per centum, of the net annual income of the trust funds as the Board in its absolute discretion thinks fit.

(2) The whole or any part of any income for the time being  
15 accumulated under subsection (1) of this section may from time to time—

- (a) Be applied by the Board for any one or more of the purposes set out in section 2 of the principal Act (as so amended):
- 20 (b) Be invested by the Board in accordance with paragraph 11 of the said deed:
- (c) If the Board so directs before the 31st day of March 1990, be added to the capital of the trust funds.

**3. Power to treat payments in the nature of income as capital—***(The Board of Trustees is empowered, notwithstanding any rule of law to the contrary,)* Notwithstanding any rule of law to the contrary, the Board of Trustees is empowered to treat as capital any dividend payments  
25 received by it in respect of any shares in any company or companies in which the trust funds or any part thereof may be invested from time to time in all cases where the dividend so paid is declared by the company making the same to be paid out of capital reserves (and/or) or profits made on the sale or realisation of capital assets or both.  
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**4. Costs and charges of Act, how to be paid—**All costs, charges, disbursements, and expenses of and incidental to the preparing, obtaining, and passing of this Act or otherwise in relation thereto shall be paid by the Board of Trustees out of the income of the trust funds.  
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**5. Private Act—**This Act is hereby declared to be a private Act.  
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