

Carter Trust Amendment Bill

Private Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Carter Trust Amendment Bill and recommends that it be passed. We recommend our amendment unanimously.

Introduction

This is a private bill sponsored by Mike Butterick MP. The bill seeks to wind up the Carter Trust and dispose of its assets. The bill proposes to do so by:

- amending the will to enable the winding up of the trust
- allowing the Carter Society's rules to be amended without the approval of the Minister of Health
- enabling the Public Trust to distribute the Carter Trust's assets.

Background

The Carter Trust is a charitable trust established through the will of Charles Rooking Carter. Mr Carter was a philanthropist involved in the colonial settlement of the Wairarapa. His will provided land to generate income to establish and maintain the Carter Home, a home for "aged poor men". The will established the Public Trust as trustees.

In the 1960s, it was determined that the Carter Home was no longer suitable as a home for the elderly. The Carter Society was incorporated as a society in May 1960 to establish a new home to provide care for the elderly. The Carter Trust Act was enacted in 1961 to amend the trust established under the will. This Act:

- clarified provisions around administration of the Carter Trust
- provided that the Public Trust may make payments of net income to:
 - the Society, for the purposes of the new Carter Home

- to pay an annuity to the Anglican Parish
- to pay for the upkeep of Mr Carter’s grave
- inserted a requirement that the Society must obtain the approval of the Minister of Health before changing the Society’s rules.

The Carter Society is a registered charity under the Charities Act 2005. Its charitable purposes include providing high quality, homely, rest home accommodation for older persons who are in need of additional support, care, and attention. The “new Carter Home” noted in the Act now operates as the Carter Court Care Home.

We understand that the provisions of the Carter Trust Act have lost their relevance over time, to the point that they are hindering the Carter Society’s ongoing provision of services to the elderly. Amendments to the Act are proposed through this bill to facilitate termination of the Trust and allow the Society to continue its activities in a more efficient matter. Both the Carter Society and the Public Trust agree that while it was initially appropriate to have the Carter Trust act as the owner of assets and oversee the release of income to the Society, this is no longer needed.

Reasons for introducing the bill to Parliament

Private bills must explain, in their preamble, the facts on which the bill is founded and the circumstances giving rise to the necessity for it, and whether the objects of the bill can only be attained by legislation.

The bill’s preamble states that the primary objects of the bill cannot be achieved without legislation. In its submission, the Public Trust explained that because the Carter Trust Act amended the will, it is not possible to amend the Carter Trust or make arrangements to enable the termination of the Trust without legislation. It provided a letter from the Crown Law Office further explaining that varying the will by using part 3 of the Charitable Trusts Act 1957 might be inconsistent with the principal Act, but that the will could be varied through the use of a private bill where the High Court does not have jurisdiction.

We are satisfied that legislation is necessary to achieve the bill’s purposes.

Upkeep of Mr Carter’s grave

Section 7(a) of the Act includes a requirement for net income from the Trust to be used for “paying the costs of keeping in proper order the grave of the testator”. Clause 6 of the bill would repeal section 7 entirely, and replace it with a new section 7 providing conditions of the Trust’s termination.

We heard from the Carter Society that in 2023, when changes proposed by this bill were being considered, it signed an affidavit agreeing that “the Society undertakes to maintain the grave of the late Mr. Carter as a condition of approving the proposed scheme”.¹ The Society has been responsible for this since then.

We note that the upkeep of Mr Carter’s grave was not included in the original will, but was included in the 1961 Act.

We considered whether this matter should be included in the bill. Because the original will made no provision for the upkeep of the grave, we consider that it was not within the scope of Mr Carter's original intentions. We are therefore comfortable not including it in legislation. We do, however, consider this matter important. We have received assurances from the Society that the grave site will continue to be maintained, and are satisfied with how this will be handled.

Proposed amendments

We recommend minor and technical amendments to clauses 7 and 8. We also recommend one major amendment to the bill as introduced, in relation to ministerial powers.

Section 17 of the principal Act states that certain rules of the Society may not be altered, added to, or rescinded without the consent of the Minister of Health. Clause 9 of the bill would repeal section 17.

We note that section 12 of the Act sets out that the Society has the power to charge and recover any fixed amount from any person residing in the new Carter Home. It also states that the Minister of Health may fix the maximum charges. The bill as introduced proposes no changes to section 12, despite the ministerial powers in Section 17 being repealed.

We considered whether section 12 is necessary, given that the other powers of the Minister would be repealed. We sought further information from the Ministry of Health. The ministry advised us that section 12 of the Act may be redundant, because:

- fees for long-term residential care are controlled by the Residential Care and Disability Support Services Act 2018, which sets a nationally agreed maximum contribution for contracted care services
- the Carter Court Care Home is a signatory to the Age-Related Residential Care Services Agreement, and it is not standard practice for facilities under this agreement to require ministerial involvement in setting fees.

We understand that removing section 12 would not affect the amount that residents of the Carter Court Care Home are required to pay for contracted care services, as these are already controlled by the Residential Care and Disability Support Services Act.

We therefore recommend that, for consistency, the bill be amended to insert new clause 7A, which would remove the ministerial powers provided for in section 12.

¹ The affidavit signed by the Chair of the Carter Society is available on the Parliament website here: Carter Society Incorporated Supp 1 (Affidavit); Submissions and advice | New Zealand Parliament—Pāremata Aotearoa.

Appendix

Committee process

The Carter Trust Amendment Bill was referred to this committee on 20 August 2025.

We called for submissions on the bill with a closing date of 2 October 2025. We received and considered submissions from 12 interested groups and individuals. We heard oral evidence from 2 submitters at hearings in Wellington.

Advice on the bill was provided by the Ministry of Justice. We consulted with the promoter of the bill, the Public Trust (acting as the sole trustee of the Carter Trust). The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Committee membership

Joseph Mooney (Chairperson)

Jamie Arbuckle

Kahurangi Carter (from 11 February 2026)

Paulo Garcia (until 11 February 2026)

Hon Willie Jackson (until 18 February 2026)

Dana Kirkpatrick (from 11 February 2026)

Laura McClure

Ricardo Menéndez March (until 11 February 2026)

Maureen Pugh

Hon Jan Tinetti (from 18 February 2026)

Helen White

Mike Butterick and Mariameno Kapa-Kingi participated in some of our consideration of this bill.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Mike Butterick

Carter Trust Amendment Bill

Private Bill

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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: 5
- (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: 5
- (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: 10
- (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: 15

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Carter Trust Amendment Act **2025**. 20

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. 25

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**. 30

5 Sections 3 to 6 repealed

Repeal sections 3 to 6.

6 Section 7 replaced (Disposal of income)

Replace section 7 with: 35

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	5
(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.	10
(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	15
	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	20
	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:	25
	(c) wilful commission of a breach of trust.	
7	Section Sections 8 to 11 repealed	
	Repeal sections 8 to 11.	
7A	Section 12 amended (Power to charge residents of new Carter Home)	
	<u>In section 12, after “fixed by the society”, delete “: provided, however, that the Minister of Health may from time to time fix the maximum charges which may be so made either generally or in respect of specified persons or classes of persons”.</u>	30
8	Section Sections 15 and 16 repealed	
	Repeal sections 15 and 16.	35

9 Section 17 repealed (Society's rules)

Repeal section 17.

Legislative history

13 August 2025

20 August 2025

Introduction (Bill 193–1)

First reading and referral to Social Services and Community
Committee