

MAINPOWER TRUST

(Trust)

History of Trust Deed Amendments

Deed of Resettlement (The MainPower Trust) dated 24 October 1995

This deed established the MainPower Trust. It was formed by resettlement of assets held under a temporary trust established on 26 April 1993 for the purpose of holding the ownership of MainPower New Zealand Limited pending decisions on the appropriate ownership of the company.

The deed provides for:

- Qualifying Customers to be beneficiaries of any income distributions in proportions defined in the deed;
- The MainPower Foundation (a charitable foundation to be formed) and Qualifying Customers to be beneficiaries of any capital distributions in proportions defined in the deed;
- The MainPower Foundation to be the beneficiary of any undistributed assets on termination of the Trust.

Deed of Amendment dated 24 November 1995

- Added the definitions of "Public Holiday" and "Working Day" to clause 1.1.
- Inserted new clause 1.6 which provides that where an act is required to be done on or by a date that is a non-Working Day, the date for doing that act will be moved to the next following Working Day.
- Amended Schedules 3 and 7 by deleting the definition of "Working Day" from Schedule 3 and deleting provisions similar to the new clause 1.6 as they were no longer required.
- Amended Schedule 8 to correct some clause references.

Deed of Amendment dated 30 November 1998

- Changed the "Roll Date" for Trustee Elections from 3 months prior to the Election Day to 6 weeks prior to the Election Day.
- Amended the definition of "Unanimous Resolution" to provide for situations where there is a vacancy / vacancies of Trustees, by providing that a "Unanimous Resolution" means a resolution passed by all of the Trustees (amended from "all 7"), provided that a Unanimous Resolution can only be passed if there are at least 6 Trustees.
- Updated the reference to the Company's Constitution.
- Amended the definition of "Elected Trustees" to clarify that any Trustee elected by the other Trustees for the purposes of filling any vacancy of Trustees is an "Elected Trustee".

-
- Changed the requirement for Trustees to reside in the District to a requirement that they be Qualifying Customers.
 - Added the requirement for Trustees to be on the Roll as at the Roll Date in order to be Trustees.
 - Amended the provisions relating to the term of office of Trustees to provide that:
 - any Trustee elected by the other Trustees for the purposes of filling any vacancy of Trustees holds office from the date of appointment by the other Trustees until midnight 13 days after the Election Day following their appointment (i.e. their term finishes at the same time as the term of all other Elected Trustees, regardless of when they were appointed); and
 - the Trustees are not required to appoint a Trustee to fill any vacancy of Trustees if the vacancy occurs no more than 6 months before an Election Day, provided that there are at least 6 Trustees.

Deed of Amendment dated 12 October 2000

- Amended clause 4.3 of the Deed of Trust, which provides that the Trustees waive any rights to receive dividends in respect of the shares in MainPower New Zealand Limited until there has been a 60% Capital Distribution, by providing that the waiver does not apply to a special dividend that reflects either:
 - proceeds from a sale of assets by the Company; or
 - accumulated retained earnings that the directors do not consider are required for the purposes of the Company's business or for the rebate scheme.

Deed of Amendment dated 18 March 2002

- Replaced the provisions of the Deed of Trust relating to the requirement of the Trustees to prepare financial statements with more detailed provisions.
- Replaced the provisions of the Deed of Trust requiring the Trustees to appoint an auditor with provisions:
 - requiring the Trustees to hold an annual meeting of beneficiaries at which the beneficiaries will appoint an auditor;
 - prescribing the qualifications of the auditor; and
 - setting out the procedures for the meeting of beneficiaries.

These new provisions reflect the wording of section 158C — 158E Electricity Act 1992, which came into effect on 8 August 2001.

- Amended the definition of "Qualifying Customer" to provide that:
 - a "residential customer" responsible for a fixed line charge in respect of "Night Special" supply is not a Qualifying Customer; and
 - the exclusion of customers classified by the Company as "temporary supply customers" from the definition of Qualifying Customers only applies to "non-residential customers".

-
- Changed the frequency of the mandatory 60% Capital Distribution Plan from a triennial review to a six-yearly review.
 - Amended clause 8.1 to clarify that the Trustees have a discretion to commence a 60% Capital Distribution Plan at any time.
 - Amended clause 8.2 to provide that the six yearly 60% Capital Distribution Plan is not to commence if a 60% Capital Distribution Plan had been commenced within the last 6 years but did not proceed (due to the Trustees resolving not to proceed, or a distribution being prevented by a Poll), in which case the 6 year period starts to run from the date of the resolution or Poll preventing that distribution. (The provision that a six-yearly 60% Capital Distribution Plan will not commence where a 60% Capital Distribution Plan had been commenced within the last 13 months as a result of the Trustees approving a Proposal or Major Share Issue existed before the 2002 amendments.)
 - Added clause 8.4, which provides that a 60% Capital Distribution Plan must be commenced where it is requisitioned by at least 10% of the Qualifying Customers.

Deed of Variation of Trust dated 23 November 2007

- Amended the definition of "Election Day" in clause 1.1 of the Deed of Trust so that the Election Day would be the first Friday (as opposed to the first Wednesday) of March in an election year.
- Replaced the word "Shares" in clause 13.4 with "MainPower Shares" such that the Consultative Procedure is only required in relation to the disposal of shares in MainPower New Zealand Limited, not any other shares that might be held by the MainPower Trust.
- Amended Schedule 3 of the Deed of Trust to:
 - provide for a rotation of the elected Trustees, such that two or three elected trustees (as opposed to all five) will generally be required to retire every three years. Retiring Trustees may still stand for re-election;
 - provide for voting at the Trustee elections to be conducted by way of internet voting; and
 - update legislative references

A copy of the Deed of Variation is included in Appendix 1 of the Manual.

Deed of Variation of Trust dated 15 December 2008

The intention behind this variation was to require all seven Trustees of the Trust to be elected and to give the Trustees the power to hold Special Elections outside the triennial Elections to elect replacement Trustees in a number of circumstances. The amendments were the result of the introduction of the Commerce Amendment Act 2008 (see Section 1: History of the MainPower Trust). To achieve this the following amendments were made:

- Removed the definition of "Election Day" from clause 1.1 of the Deed of Trust and inserted a new definition of in Schedule 3 of the Trust Deed so that Election Day would be the first Friday of March 2008 and the first Friday in March at triennial intervals thereafter and the date of any Special Election.

-
- Removed the definition of "Election Roll Date" from clause 1.1 and removed paragraph (iii) of the definition of "Roll Date" in clause 1.1 of the Deed of Trust and inserted a new definition of Election Roll Date in Schedule 3 of the Trust Deed so that the Trustees would have the power to reduce the time between the Election Roll Date and the Election Day for the purposes of speeding up a Special Election.
 - Amended Schedule 3 of the Deed of Trust to:
 - remove the office of Appointed Trustees and provide that all seven trustees must be elected;
 - allow the Trustees to call a Special Election to replace the exiting Appointed Trustees;
 - provide the Trustees with the following options to fill any Trustee vacancy:
 - to continue with 6 Trustees if the vacancy arises within 6 months of an Election Day; or
 - to hold a Special Election to fill the vacancy; or
 - to appoint a replacement Trustee to fill the vacancy and hold office until the next Election Date.

Deed dated 24 June 2015

This deed amended the existing deed by consolidating all previous amendments and making the following further amendments:

- providing that the minimum number of Trustees required for a Unanimous Resolution is five (5) rather than six (6) Trustees, in order to avoid a situation where a Unanimous Resolution cannot be passed due to a shortfall in the number of Trustees that cannot quickly be filled due to the casual vacancy Trustee appointment and election restrictions in section 54D(2C)(c) the Commerce Act 1986 (ie if a casual vacancy has already been filled by appointment since the last Trustee election, the power to appoint a trustee to replace a further casual vacancy is not available again until after the next election. If another casual vacancy arises, the Trustees must instead hold a special election to increase the Trusteeship to the required number. Holding an election takes some time, so there could be an extended period during which there are insufficient Trustees to pass a Unanimous Resolution, for purely administrative reasons);
- removing the obligation for the Trustees to waive their right to receive any dividends from the Company as being an unnecessary restriction on their rights as shareholders of the Company bearing in mind that the Company exercises its own discretion as to whether or not to declare a dividend, and the Trustees remain entitled to waive the right to receive a dividend, under section 53(3) of the Companies Act 1993;
- providing flexibility to change the perpetuity period if the law governing the perpetuity period of a trust changes (as has been considered by the Law Commission);
- clarifying Trustee election procedures; and
- making other drafting improvements to the Trust Deed.

Deed dated 27 January 2016

This deed amended the existing deed by consolidating all previous amendments and making the following further amendments:

- amending the definition of "Customer" and "Qualifying Customer" to avoid unintentionally excluding persons connected to the Company's distribution network in the District but who do not have a contract directly with the Company (for example, their contract with their electricity retailer may provide for their liability to the Company). This is a technical issue arising out of the separation of electricity lines businesses and electricity supply businesses under the Electricity Industry Reform Act 1998;
- amending clause 12.8 to reflect the financial statement and audit timeframes in sections 99 and 100 of the Electricity Industry Act 2010;
- replacing the form of deed for the MainPower Foundation in Appendix A of the Trust Deed, to reflect a modernised version of the deed approved by the Trustees, in keeping with the substance of the former Appendix A