

## New Zealand.



### ANALYSIS.

- |  |  |
|--|--|
| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Interpretation.</li> <li>3. Distribution of estates of persons dying intestate.</li> <li>4. Payments of £100 may be made without probate or administration.</li> <li>5. Infants above nineteen years of age may make wills if married.</li> <li>6. Bondsmen and sureties deemed to be trustees within "Trustee Act, 1883."</li> </ol> | <ol style="list-style-type: none"> <li>7. Provision when testator's property, primarily liable for payment of his debts, is insufficient for that purpose.</li> <li>8. Where deed executed under power to sell lease, or mortgage conferred by principal Act or this Act, title of purchaser, lessee, or mortgagee not impeachable.</li> <li>9. Discharge or removal of executors and administrators.</li> <li>10. Provisions of sections 84 to 88 of "Trustee Act, 1883," extended.</li> <li>11. As to payment of debts by executors and administrators.</li> </ol> |
|--|--|

### 1885, No. 62.

**Title.**                    **AN ACT** to regulate the Distribution of the Separate Property of Married Women dying Intestate as to such Property, and to amend the Law as to Administration of Estates.

*[Reserved for the signification of Her Majesty's pleasure.]*

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

**Short Title.**            **1.** The Short Title of this Act is "The Administration Act 1879 Amendment Act, 1885."

**Interpretation.**        **2.** "Property" and "separate property" include both real and personal estate and choses in action.

**Distribution of estates of persons dying intestate.**        **3.** The law now in force in this colony providing for the distribution of the estates of persons dying intestate is modified as follows, namely,—

The property of a man dying intestate shall be allotted or distributed as follows:—

If he leave a wife, but no children, father, mother, brother, nor sister him surviving, the whole to his wife absolutely.

If he leave a wife and children him surviving, one-third to his wife and two-thirds to his children.

If he leave a wife and his father, but no children him surviving, two-thirds to his wife and one-third to his father.

If he leave a wife and his mother, but no children nor father him surviving, two-thirds to his wife and one-third to his mother.

If he leave a wife and brothers and sisters, but no children, father, nor mother him surviving, two-thirds to his wife and one-third to his brothers and sisters.

The separate property of a woman dying intestate shall be allotted or distributed as follows:—

If she leave a husband but no children, father, mother, brother, nor sister her surviving, the whole to her husband absolutely.

If she leave a husband and children her surviving, one-third to her husband and two-thirds to her children.

If she leave a husband and her father, but no children her surviving, two-thirds to her husband and one-third to her father.

If she leave a husband and her mother, but no children nor father her surviving, two-thirds to her husband and one-third to her mother.

If she leave a husband and brothers and sisters, but no children, father, nor mother her surviving, two-thirds to her husband and one-third to her brothers and sisters.

In the event of the death of a child of the man or woman dying intestate, the children of such child shall take his or her parents' share, and the words "brothers and sisters" shall include a brother or a sister, and the children of a deceased brother or sister, such children taking their parents' share.

4. All public officers and other persons who are now by law authorized to make payment of any moneys belonging to the estate of a deceased person not exceeding fifty pounds in amount, without requiring probate or letters of administration, or in the case of the Public Trustee without taking out an order for administration, may, from and after the passing of this Act, make payments of any such moneys not exceeding one hundred pounds in amount.

Payments of £100 may be made without probate or administration.

All enactments authorizing any such officers or persons to the effect herein first mentioned shall be read as if the words "one hundred pounds" had been originally enacted therein in lieu of the words "fifty pounds."

5. Every male infant not under the age of nineteen years, and every female infant not under the age of eighteen years, after his or her marriage, shall be competent to make a valid will disposing of all or any part of his or her real and personal property

Infants above nineteen years of age may make wills if married.

6. Every person who, in the capacity of bondsman or surety for another, receives moneys belonging to any estate of a deceased person, shall be deemed to be a trustee within the meaning of "The Trustee Act, 1883," and may apply for relief under the said Act, and to be discharged from the custody of such moneys.

Bondsmen and sureties deemed to be trustees within "Trustee Act, 1883."

7. If any testator's property, primarily liable for the payment of his debts, is insufficient for that purpose, each of his specifically-devised or bequeathed properties (if more than one) shall be liable to make good the deficiency in the proportion that the value of each of such properties bears to the aggregate value of the specifically-devised or bequeathed properties of the testator.

Provision when testator's property, primarily liable for payment of his debts, is insufficient for that purpose.

8. Where a deed or other instrument is made or executed in professed exercise of the power to sell, lease, or mortgage conferred by the said Act or this Act, the title of the purchaser, lessee, or mortgagee shall not be impeachable except on the ground of fraud,

Where deed executed under power to sell, lease, or mortgage conferred by principal

Act or this Act, title of purchaser, lessee, or mortgagee not impeachable.

or be affected on the ground that no case had arisen to authorize the sale, lease, or mortgage, or that the power was otherwise improperly or irregularly exercised; but any person damnified by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the person exercising the power; and no purchaser, lessee, or mortgagee shall be concerned to see to the application of the money paid by him, or be responsible for the misapplication thereof.

Discharge or removal of executors and administrators.

9. Whenever an executor or administrator shall die, or shall be absent from the colony for six months without leaving a lawful attorney, or shall be desirous of being discharged from the office of executor or administrator, or shall become incapable of acting as such, or shall be guilty of such misconduct in his office as renders it expedient he should be removed, the Court or a Judge thereof may, by order on a summary application, discharge or remove such executor or administrator, and may, by order, appoint any person or persons to be executor or executors, or administrator or administrators, in the place of the executor or administrator discharged or removed, on such terms and conditions in all respects as the Court or a Judge may think fit. The executor or administrator so removed or discharged shall, from the date of such order, cease to be liable for acts and things done after such date. Upon every such appointment all the property and rights vested in the executor or administrator as such, discharged or removed as aforesaid, shall become and be vested in the person or persons appointed by the said order, and such person or persons shall have the same powers, authorities, and discretion, and may in all respects act, as if he or they had been originally appointed executor or executors, or administrator or administrators.

Provisions of sections 84 to 88 of "Trustee Act, 1883," extended.

10. The provisions of sections eighty-four to eighty-eight, both inclusive, of "The Trustee Act, 1883," shall apply and extend to an executor and administrator respectively.

As to payment of debts by executors and administrators.

11. An executor or administrator may pay or allow any debt or claim on any evidence that he thinks sufficient, and may allow time for payment of any debt, and may compromise, compound, abandon, submit to arbitration, or otherwise settle any debt or claim relating to the estate of the deceased without being responsible for any loss occasioned by any act or thing done in good faith.