

# New Zealand.

ANNO VICESIMO NONO

## VICTORIÆ REGINÆ.

No. 25.

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## AN ACT for the Investment and Application of Moneys accruing to Maoris in certain cases. Title. [27th October 1865.]

**W**HEREAS it is expedient to provide for the investment and beneficial application of moneys becoming payable by the Crown to persons of the Maori race under the “New Zealand Settlements Act 1863” or any other law for the time being in force in cases where such persons are infants or under any legal disability Preamble.

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

I. The Short Title of this Act shall be “The Maori Funds Investment Act 1865.” Short Title.

II. In the construction of this Act the word “Maori” shall mean aboriginal natives of New Zealand and shall include half-castes and their descendants by Natives The word “Trustees” shall mean Trustees whether original or substituted and shall include the survivor of them. Interpretation.

III. In any case in which any money shall be payable by the Crown to any Maoris by way of compensation under any Act of the General Assembly or arising in any other manner if such persons or any of them shall be infants lunatics or under other legal disability it shall be lawful for the Governor in Council to order that so much of such sum of money as on the face of the order award certificate or other instrument whereby such sum of money becomes payable shall appear to be payable to such infant lunatic or other person under legal disability or the whole of it if the respective shares of the persons named in such order Money coming to parties under disability may be paid to Trustees.

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award certificate or other instrument cannot be distinguished shall be paid to Trustees and in and by such order shall name and appoint such Trustees as the Governor in Council shall think fit and such Trustees shall have the powers and be subject to the legal incidents hereafter set forth Provided always that none of the powers or incidents hereby conferred or annexed to the said office or to the circumstances hereafter stated shall take effect or be exercisable if it is declared in the Order in Council appointing the Trustees that they shall not take effect and where there is no such declaration then if any variations or limitations of any of the powers or incidents hereby conferred or annexed are contained in such Order in Council such powers or incidents shall be exercisable and take effect only subject to such variations or limitations Provided further that such variations or limitations may be made by reference to the numbers of the sub-sections of clause IV. of this Act.

- Powers of Trustees— IV. The Trustees for the time being may do the following things—
- To pay costs (1.) They may pay and discharge all costs and expenses incurred by or on behalf of their *cestui-que* trusts in appearing before any Court or other judicature for the purpose of obtaining such compensation as aforesaid or consequent or attending thereon or for any other purpose which the Judge of such Court or other judicial authority shall certify to have been necessary or beneficial to the parties.
- To pay annuity &c. to widow (2.) They may pay such portion of the money in their hands as the Governor shall sanction to any widow entitled under such order award or certificate as aforesaid and may also pay her an annuity of such an amount as to them may seem just for her maintenance.
- To distribute part of money to tribe (3.) They may with the consent of the Governor pay any portion of such money to or divide such portion amongst any members of the aboriginal tribe whom they may think entitled thereto according to the Native custom applicable to the land from whence or respecting which the fund arose.
- To invest (4.) They may in their own names invest the money in their hands in Government securities or on mortgage of land and hereditaments or other real securities within the Colony and also from time to time may vary any such investments.
- To purchase lands (5.) They may in their own names with the approval of the Governor purchase any land tenements or hereditaments in the Colony and may sell the same together or in parcels and by private contract or public auction as and when they shall think fit and such purchased land tenements and hereditaments until sold by the said Trustees shall be held by them upon the same trusts for the same purposes and subject to the same conditions as the money was subject to with which they were purchased.
- To hold property in trust for infants (6.) If the said trust funds and property are held in trust for infants the Trustees shall stand possessed of the same for the benefit of all and every such infants to be equally divided among them share and share alike the shares of male infants to be paid assigned or transferred as and when they shall respectively attain the age of twenty-one years and the shares of female infants to be paid assigned or transferred as they shall respectively attain that age or marry but if there shall be only one such infant *cestui-que* trust who shall attain the age of twenty-one years or being a female shall marry as afore-

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said then the whole of such trust funds and property shall be paid transferred and assigned to such one subject however in all cases to any annuity payable under the foregoing provisions Provided that if any infant *cestui-que* trust shall die before his or her money shall become vested as aforesaid leaving children such children shall succeed to their deceased parent's money or share and be entitled thereto in manner aforesaid.

- (7.) In all cases where the property is held in trust for infants they may at their discretion pay to or apply for or towards the maintenance or education of such infants the whole or any part of the income to which such infants may be entitled in respect of such property whether there be any other fund applicable to the same purpose or any other person bound to provide for such maintenance and education or not and the Trustees shall accumulate all the residue of such income by way of compound interest by investing the same and the resulting income thereof from time to time in proper securities or on mortgage or in the purchase of hereditaments as aforesaid for the benefit of the person who shall ultimately become entitled to the property from which such accumulation shall have arisen Provided always that it shall be lawful for the Trustees at any time if it shall appear to them expedient to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year. To apply money for maintenance &c. of infants
- (8.) They may at their discretion apply the whole or any part of the money or share of an infant if a male in placing him in any business profession or engagement or otherwise for his preferment or advancement in life and if a female may settle her money or share on her and her children on her marriage or may pay over the same to trustees for her or to her for her absolute use on her marriage as they may think fit. Or for advancement
- (9.) When all the surviving *cestui-que* trusts shall have come to age the Trustees shall wind up the trust estate and shall divide the residue of the trust property among them subject to any annuity as aforesaid if any such there be (for the regular payment of which thereafter they may make such arrangement as they think fit) share and share alike. To divide trust funds
- (10.) They may give do make and execute all notices agreements deeds and other instruments and things necessary for carrying into effect the objects of their trust. To execute deeds
- (11.) They may out of the trust fund reimburse themselves all costs charges and expenses which they may lawfully incur or be reasonably put into in carrying this Act into execution. To reimburse themselves expenses
- (12.) They may pay to themselves or to such one of them as they shall fix upon to undertake the administration of the affairs of their trust and the management of the education advancement and maintenance of the *cestui-que* trusts an annual remuneration of five per cent. on the income. To remunerate themselves
- (13.) And they may with the consent of the Governor first obtained do all such other things as they may think necessary or beneficial for the advantageous administration of the trust estate and the good of their *cestui-que* trusts. To do anything else advantageous to trust estate

V. The receipt of such Trustees or any two of them shall be a sufficient discharge to the Colonial Treasurer or other person paying any money to them by virtue of such Order in Council as aforesaid for Receipts of Trustees.

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the amount of money therein expressed and he shall not be charged with the duty of seeing to the application thereof.

Appointment of new Trustees.

VI. Whenever any Trustee either original or substituted shall die or desire to be discharged from or refuse or become unfit or incapable to act in the trusts or powers in him reposed before the same shall be fully discharged and performed it shall be lawful for the surviving or continuing Trustees or Trustee for the time being or the acting executors or administrators of the last surviving and continuing Trustee or for the last retiring Trustee by writing to appoint any person or persons to be a Trustee or Trustees in the place of the Trustee or Trustees so dying or desiring to be discharged or refusing or becoming unfit or incapable to act as aforesaid and so often as any new Trustee or Trustees shall be so appointed as aforesaid all the trust property which for the time being shall be vested in the surviving or continuing Trustees or Trustee or in the heirs executors administrators of any Trustee shall immediately thereupon without any further deed become by virtue of this Act legally conveyed assigned and transferred to and effectually vested in such new Trustee or Trustees either solely or jointly with the surviving or continuing Trustee or Trustees as the case may require And every new Trustee to be appointed as aforesaid shall have the same powers authorities and directions and shall in all respects act as if he had been originally appointed a Trustee by the Order in Council.

Receipts of Trustees.

VII. The receipt in writing of any Trustees or Trustee for any money payable to them or him by reason or in exercise of the trusts or powers reposed or vested in them or him shall be a sufficient discharge for the money therein expressed to be received and shall effectually exonerate the persons paying such money from seeing to the application thereof or from being answerable for any loss or misapplication thereof.

Limitation of liability of Trustees.

VIII. Every Trustee shall be chargeable for such moneys only as he shall actually have received although he shall have joined in any receipt for moneys received by any co-trustee and shall not be answerable for the act of any co-trustee or for any loss which may arise by reason of any trust moneys being deposited in the hands of any banker or agent or from the insufficiency or deficiency of any security upon which the trust moneys or any part thereof may be invested nor for any loss in the execution of the trust unless the same shall happen through his own wilful neglect or default.

Application to Supreme Court.

IX. Upon the application by petition to the Supreme Court of any person making claim to the trust funds or any part thereof or the interest and proceeds thereof or to the securities whereon the same shall be invested or any part thereof or to any estate or interest therein the Supreme Court may in a summary way make such order for the distribution of the trust funds or for the investment thereof or payment of the interest and proceeds thereof or any part thereof or any such other order relating thereto or the rights or interests of the several parties thereto or therein as to the Supreme Court shall seem fit.