

New Zealand.



ANALYSIS.

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1922, No. 54.

AN ACT to amend the Native Trustee Act, 1920.

Title.

[31st October, 1922.]

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

1. This Act may be cited as the Native Trustee Amendment Act, 1922, and shall be read together with and deemed part of the Native Trustee Act, 1920 (hereinafter referred to as the principal Act).

Short Title.

2. All powers and authorities vested in and all duties imposed upon the Board constituted and defined by the Native Reserves Act, 1882, by that Act or any other Act shall be deemed to have been vested in and imposed upon the Native Trustee as from the commencement of the principal Act, and the said Board shall be deemed to have been thereby abolished.

Powers of Board under Native Reserves Act, 1882, vested in Native Trustee.

3. Section twelve of the principal Act is hereby amended by omitting from subsection two the word "four," and substituting the word "three."

Reducing quorum of Native Trust Office Board.

4. (1.) In this section the terms "European" and "Native" have the same meanings respectively as in the Native Land Act, 1909.

Native Trustee may act as trustee of person under disability until other trustee appointed.

(2.) On receipt of notice in writing that a reception-order under the Mental Defectives Act, 1911, has been made in respect of any Native, or in respect of any European entitled at law or in equity to any undivided share in Native freehold land, or on receipt of notice in writing that any Native or European as aforesaid is in prison, and unless a trustee, other than the Native Trustee, has been duly appointed

under Part X of the Native Land Act, 1909, the Native Trustee shall have in respect of such person or his property the same powers, duties, functions, and liabilities as if he had been duly appointed trustee under Part X of the Native Land Act, 1909.

(3.) The powers, duties, functions, and liabilities of the Native Trustee under this section shall cease—

- (a.) When the person for whom he is acting as such trustee dies ; or
- (b.) When a trustee for that person is appointed under Part X of the Native Land Act, 1909 ; or
- (c.) When that person is discharged under the Mental Defectives Act, 1911, and it appears from the notice of discharge that he is able to manage his own affairs ; or
- (d.) When that person ceases to be subject to the Prisons Act, 1908.

Assignment of rents, &c., to Native Trustee.

5. Nothing contained in any Act relating to Native reserves, or to the Westland and Nelson Native Reserves, or to the West Coast Settlement Reserves shall prevent or invalidate any assignment, charge, or other disposition, by way of anticipation or otherwise (whether such assignment, charge, or other disposition has been made before or after the passing of this Act), in favour of the Native Trustee of any rent, purchase-money, or compensation or other money which is or may become receivable by any beneficiary in respect of his interest, whether legal or equitable, in any such reserve or in respect of any alienation thereof.

Mode of fixing rent to be reserved on renewal of leases of Native reserves.

6. In any lease of any Native reserve or any portion thereof granted by the Native Trustee as lessor after the coming into force of this Act, whether under the Native Reserves Act, 1882, the Westland and Nelson Native Reserves Act, 1887, the West Coast Settlement Reserves Act, 1892, the Native Land Amendment and Native Land Claims Adjustment Act, 1917, or the Public Bodies' Leases Act, 1908, or any amendment thereof, it shall be lawful to include a provision that the annual rental to be reserved on any renewal of such lease may be assessed at not more than five per centum per annum of the unimproved or capital value (as the case may require) of the leased property at the time of such renewal in lieu of by arbitration or otherwise, and where provision is so made such value shall be ascertained and determined by a special valuation under the Valuation of Land Act, 1908.

Section 12 of West Coast Settlement Reserves Act, 1892, amended.

7. Section twelve of the West Coast Settlement Reserves Act, 1892, as amended by section two of the West Coast Settlement Reserves Act Amendment Act, 1900, is hereby further amended by adding to subsection five the words "or subject to the consent of the Native Minister for such longer period as the Native Trustee thinks advisable, but not exceeding twenty-one years in any case."

Extension of powers of Native Trustee with respect to administration of Native estates.

8. (1) Section one hundred and forty-six of the Native Land Act, 1909, is hereby amended as follows :—

- (a.) By adding, after the words "Public Trustee" in subsection one thereof, the words "or to the Native Trustee":
- (b.) By adding the following subsections,—

"(3.) The Public Trustee or the Native Trustee may, by writing delivered to the Registrar, decline, for any reason which seems to him proper, to accept administration of any estate, and thereupon his appointment shall cease, and the

Court may, without further application, appoint some other person in his place as executor or administrator.

“(4.) For the purposes of section one hundred and fifty of this Act the administrator appointed by the Court shall be deemed to be the person to whom the land was devised upon the trusts set forth in the will, and the will shall be read accordingly.”

(2.) When any Native dies or has heretofore died, whether testate or intestate, and notwithstanding that some person other than the Native Trustee has been appointed executor or is entitled to letters of administration, the Native Trustee may, if he thinks fit, until probate or letters of administration are granted, exercise with respect to the estate of the deceased person all such powers and authorities and do all such acts and things as he would have or could exercise or do if the deceased person had died intestate and the Native Trustee had obtained administration :

Provided that the Native Trustee shall not have power to alienate any portion of the real estate of a deceased Native pending the grant of probate or letters of administration or the making of a succession-order, as the case may require.

(3.) All costs, charges, and expenses incurred by the Native Trustee under this section shall be a first charge upon the property of the deceased Native.

(4.) Any person who afterwards takes out probate or letters of administration of the estate of any such deceased person shall, before he is entitled to act thereon, pay any costs, charges, commissions, and expenses incurred by or payable to the Native Trustee.

(5.) The Native Trustee acting under this section shall not be deemed to be or to be liable as an executor or administrator *de son tort*.

(6.) When the Native Trustee is the administrator of a testate or intestate estate, then, as to the shares of infants, the Native Trustee shall, subject to the terms of any will or to any order which the Native Land Court may make, hold the shares of such infants as trustee for such infants until such infancy expires, and such shares shall be dealt with and administered in accordance with the provisions of Part X of the Native Land Act, 1909.

(7.) Where the Native Trustee is appointed executor, administrator, or trustee under the provisions of this section all property, rights, powers, authorities, functions, and discretions vested in or conferred by the trust instrument on the executor, administrator, or trustee appointed thereunder shall on such appointment and without any conveyance or assignment become vested in and exercisable by the Native Trustee as fully and effectually as if he had been named as such executor, administrator, or trustee under such instrument.

9. (1.) With respect to the lands specified in the Schedule hereto (being lands vested in the Native Trustee) the Native Trustee shall be a leasing authority within the meaning of the Public Bodies' Leases Act, 1908, and may lease the same or any part thereof in accordance with the provisions of that Act.

Native Trustee
deemed to be
leasing authority.

(2.) Section twelve of the Public Bodies' Leases Act, 1908, shall apply with respect to leases heretofore granted by the Public Trustee of lands comprised in the said sections.

(3.) The powers conferred upon the Native Trustee by this section are in addition to and irrespective of all other leasing-powers exercisable by him in respect of the said lands under any other Act.

Schedule.

SCHEDULE.

(1.) ALL those parcels of land situated in the Town of Tauranga, being as under :—

Allotment No.	Section.	Area.	Allotment No.	Section.	Area.
		A. R. P.			A. R. P.
3	2	0 1 0	608	2	1 0 0
4	2	0 1 0	609	2	1 0 0
193	2	0 1 0	610	2	1 0 0
72	1	0 0 25	611	2	1 0 0
140	1	0 0 32	612	2	1 0 0
141	1	0 0 32	613	2	1 0 0
604	2	1 0 0	702	2	1 0 0
605	2	1 0 0	703	2	1 0 0
606	2	1 0 0	714	2	1 0 0
607	2	1 0 0	715	2	1 0 0

(2.) All that parcel of land, situated in the Suburbs of Tauranga, being Allotment No. 50, Section 2, containing 5 acres.

(3.) All that parcel of land, situated in the Parish of Te Papa, in the Tauranga Survey District, containing 100 acres, more or less, being the residue of Section 114, Block X, of that district after excepting therefrom an area of 3 acres, more or less : bounded on the north by Section 455, 655.7 links ; on the east by a public road, 587 links ; on the south by the other portion of the said Section 114, 439.7 links ; and on the west by the other portion of the said Section 114, 547.7 links.

(4.) All that parcel of land, situated in the Parish of Te Papa, in the Tauranga Survey District, containing 58 acres, more or less, being Section 14, Block X, of that district.