

New Zealand.

EDUCATION RESERVES.

1908, No. 53.

AN ACT to consolidate certain Enactments of the General Assembly relating to Education Reserves.

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

1. (1) The Short Title of this Act is "The Education Reserves Act, 1908." Short Title.

(2) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :— Enactments consolidated.

(a.) All Proclamations, orders, resolutions, appointments, notices, reservations, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings.

(b.) All Trustees, School Commissioners, schools, reserves, endowments, and lands which on the coming into operation of this Act are subject to any of the said enactments shall be deemed to be similarly subject to this Act, and the provisions of this Act shall apply thereto accordingly.

(c.) Every corporation of School Commissioners established under the said enactments, and subsisting on the coming into operation of this Act, shall be deemed to be the same corporation as is established or provided for under the corresponding provisions of this Act; and its property, liabilities, contracts, and engagements shall vest, attach, and subsist accordingly.

- (d.) Every person who on the coming into operation of this Act holds office as a School Commissioner shall continue in office until his successor under this Act comes into office, and shall be eligible for re-election or reappointment:

Provided that the current term of office shall be computed from the commencement of the term.

- (e.) All matters and proceedings commenced* under any of the said enactments, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2. In this Act, if not inconsistent with the context,—

“Board” means an Education Board constituted under “The Education Act, 1908”:

“Education reserves” means reserves made for educational purposes of a public character, whether made provisionally or permanently, and includes reserves made for the endowment of educational institutions of a public character:

“High schools” means the colleges and schools mentioned in the Second Schedule hereto, and includes such public schools as the Governor from time to time declares to be high schools within the meaning of this Act:

“Minister” means the Minister of Education:

“Primary education” means the course of instruction in a public school prescribed under “The Education Act, 1908”:

“Public school” means a public school under “The Education Act, 1908”:

“Secondary education” means any system of purely secular education carried on at superior schools, where the usual branches of a liberal education, comprising the English language and literature, Latin and Greek classics, French and other modern languages, mathematics, physics, and other branches of science are taught.

Public-school Sites.

3. (1.) The Governor may from time to time reserve any waste lands of the Crown or any lands taken under “The New Zealand Settlements Act, 1863,” or any Act amending the same or construed therewith, as sites for public schools.

(2.) Such lands shall be granted to the Board of the district in which they are situate in trust for the purpose aforesaid.

4. The Trustees of any high school, and, with the consent of the Governor in each case, the School Commissioners hereinafter mentioned, and every Board may from time to time set apart as sites for public schools any part of the Education reserves or lands vested in them or it.

5. All lands reserved or set apart under or by virtue of this or any other Act as sites for public schools shall, from the time of the making or setting apart thereof, vest, without grant, conveyance, or transfer, in the Board of the district wherein the same are situate.

Interpretation.

1877, No. 22, sec. 2
1880, No. 35, sec. 2

Governor may
reserve school-sites.
1877, No. 22, sec. 16

School Commis-
sioners and Boards
may set apart
school-sites.
Ibid, sec. 15
1882, No. 53, sec. 7
1907, No. 47, sec. 25

School-sites to vest
in the Board.
1882, No. 53, sec. 8

6. (1.) The Board may, with the consent of the Minister, sell or exchange any site for a public school.

School-sites may be sold or exchanged.

1877, No. 22, sec. 18

(2.) In the case of a sale the money received shall, as soon as conveniently may be, be invested in the purchase of—

(a.) Another suitable site for a public school; or

(b.) Land in fee-simple to be held by the Board for educational purposes.

(3.) In the case of the sale or exchange of a site having any buildings or other erections thereon, a separate valuation of such buildings and erections shall be made by some person appointed by the Minister, and so much of the proceeds of the sale or exchange as equals the amount of such valuation may be applied by the Board towards the erection of other school buildings instead of being invested as aforesaid.

1882, No. 53, sec. 12

Endowments.

7. The Governor may from time to time by Proclamation provisionally reserve any waste lands of the Crown, or any lands taken under "The New Zealand Settlements Act, 1863," or any Act amending the same or construed therewith, as endowments for primary and for secondary education within the provincial district in which such lands are, subject, however, to the following conditions:—

Governor may reserve waste lands for endowment of primary and secondary education.

1877, No. 22, sec. 19

(a.) A full and complete description of every provisional reserve, and the purpose for which it has been dedicated, shall be gazetted.

(b.) Copies of every such Proclamation, with plans and description of each provisional reserve, shall be laid before Parliament within fourteen days after the publication thereof; or, if Parliament is not then in session, then within ten days after the commencement of the next ensuing session.

(c.) The two Houses of Parliament may by resolution alter, vary, or modify the area of any provisional reserve as they think fit, or they may nullify the same by resolution.

(d.) A copy of every such resolution shall forthwith after the passing thereof be transmitted by the Clerk of each House to the Minister of Internal Affairs, who shall without delay gazette the same.

(e.) In the absence of any resolution of both Houses with respect to any such provisional reserve, the said reserve shall forthwith after the termination of the session be proclaimed by the Governor as not having been disapproved.

(f.) In the event of a resolution of both Houses altering, varying, or modifying the area of any provisional reserve, the Governor may, if he thinks fit, proclaim the same in its amended form.

(g.) The land or any part thereof comprised in any provisional reserve shall cease to be a reserve in the event of a resolution of both Houses disapproving the same, and such land may then be dealt with as it might have been if it had never been proclaimed as a reserve.

(h.) From and after the date of any Proclamation issued under either paragraph (e) or paragraph (f) hereof, the land comprised therein shall be deemed to be and shall be reserved for the purposes mentioned in such Proclamation; and as soon as conveniently may be thereafter the land mentioned therein shall be granted to the School Commissioners for the provincial district in which such lands are situated in trust for the purpose for which they are so reserved.

Percentage of lands in North Island to be set apart as an endowment for primary education. 1877, No. 22, sec. 20

8. (1.) In order to provide an endowment for primary education in the North Island, at least five per centum of the waste lands in each provincial district therein open for sale on the first day of January, one thousand eight hundred and seventy-eight, and a like percentage out of all land over which the Native title is thereafter extinguished in each such district, and which from time to time is acquired or purchased by or on behalf of the Crown, shall be reserved and set apart as an endowment for the maintenance of primary education within the education district in which such land is situated.

(2.) All such lands shall be granted to the School Commissioners for the provincial district in which such lands are situated, and shall be held by them under and subject to the powers contained in this Act with respect to other endowments vested in such School Commissioners.

High-school Reserves.

Reserves and endowments to vest without grant. 1880, No. 35, sec. 3

9. All reserves and endowments made for high schools, and vested in any persons under any Act, shall vest in such persons from the coming into operation of such Act without any grant, conveyance, or transfer.

Powers of Trustees as to real estate of schools. Ibid, sec. 4

10. The persons in whom for the time being is vested the real property of any high school (hereinafter called "the Trustees") shall have all such powers of selling, exchanging, and leasing the hereditaments and premises vested in them, or any part thereof, as are hereinafter mentioned.

Lands and leases to be sold at auction or by tender. Ibid, sec. 5

11. (1.) Every lease and sale of lands under the last preceding section shall be made by public auction or public tender, and at least two months' notice of such intended lease or sale shall be publicly notified by advertisement in one or more newspapers circulating in the land district, and also in the capital town of the provincial district wherein the lands are situate.

Application of proceeds.

(2.) All rents and profits derived from any such lease or sale shall from time to time be paid into the proper fund, and be appropriated thereout for the purposes to which the annual income or proceeds of any real estate vested in the Trustees are for the time being properly applicable.

Trustees may lease lands without premium. Ibid, sec. 6

12. (1.) The Trustees may, subject to this Act, let any lands vested in them, or any part thereof, at such rents and upon such terms and conditions as the Trustees determine.

(2.) Where the lands are rural or pastoral lands, a lease thereof may be made for any term not exceeding twenty-one years.

(3.) Where the lands are town lands, or lands used for building purposes, a lease thereof may be made for any term not exceeding fifty years.

(4.) Every such lease shall take effect in possession from the time of the execution thereof, and in every such lease an annual rent shall be reserved, payable at such times and for such periods as the Trustees think fit.

(5.) Where a lease is for a longer term than twenty-one years, the annual rent reserved by such lease for any period beyond the first twenty-one years shall be an advance at least of fifty per centum upon the annual rent payable under such lease during the last year of the expired twenty-one years.

(6.) On no lease shall any premium, fine, or foregift be taken.

13. (1.) Where any block of land has been set aside as an endowment for any high school under any enactment in force on or immediately before the twenty-eighth day of August, one thousand eight hundred and eighty (being the date of the coming into operation of "The High Schools Reserves Act, 1880"), with power to any Land Board to sell or deal with the same or otherwise dispose thereof, the Land Board of the district wherein the land so set aside is situate may from time to time sell or otherwise deal with and dispose of the same in like manner as Crown lands may be sold, dealt with, or disposed of.

Where powers of management and disposal vested in Land Board.

1880, No. 35, sec. 7

(2.) The Receiver of Land Revenue shall, after deducting the costs of survey of the land so set aside, pay over the profits and proceeds thereof in the manner provided by any enactment regulating the application of such moneys.

14. (1.) The Trustees, with the sanction of the Governor, may sell and absolutely dispose of, either together or in parcels, by public sale, all or any part of the lands vested in them in respect of which no trust has been created inconsistent with the exercise of this present power; or may exchange the said lands, or any part thereof, for any other lands held in fee-simple in New Zealand; and may (out of any money in their hands applicable to such purpose) give or receive any money by way of equality of exchange, and may execute all such conveyances as are requisite for carrying out such sale or exchange.

Trustees may sell or exchange lands, &c., vested in them. Ibid, sec. 8

(2.) The provisions of section twenty-nine hereof shall apply to lands vested in the Trustees.

(3.) All property so received in exchange shall be held by the Trustees in whom it becomes vested for the same purposes as the property given in exchange was held subject to.

Lands received in exchange to be held for same purposes. Ibid, sec. 9

15. All moneys arising from such sale, or received by the Trustees for equality of exchange as aforesaid, shall, after payment of the costs and expenses payable by the Trustees in connection with such sale or exchange, be either—

Proceeds of sale to be applied in purchase of other lands. Ibid, sec. 10

(a.) Expended in the purchase of other lands held in fee-simple in New Zealand, to be held for the same purposes as the property sold or given in exchange; or

(b.) Invested (with the sanction of the governors of the high school to which such money belongs) upon first mortgage of lands held in fee-simple in New Zealand, or in the stock, bonds, bills, or debentures of the Government thereof, or of any municipal corporation established therein, with power to the Trustees from time to time to vary any such investment.

Trustees may, with consent of governors of schools, invest such proceeds. Ibid, sec. 11

Lands foreclosed upon to be held on like trusts, &c.
1889, No. 26, sec. 2

16. Where any such moneys have been invested on mortgage as aforesaid, and the lands mortgaged become vested in the Trustees under any power of sale expressed or implied in the mortgage, the Trustees shall hold the lands so becoming vested in them on the same trusts, and subject to the same powers and conditions, as the lands from the sale of which such moneys were derived.

Power to borrow money.
1896, No. 38, sec. 2

17. (1.) The Trustees of any high school may from time to time, with the sanction of the Governor, borrow money on the security of the rents and profits of the lands vested in them, or of any part thereof.

(2.) No money shall be borrowed as aforesaid at a higher rate of interest than five per centum per annum.

(3.) The lender of any money borrowed under this section shall not be concerned to see that the sanction of the Governor as aforesaid has been obtained.

May apply moneys in building.
1896, No. 38, sec. 13

18. The Trustees may from time to time, with the sanction of the Governor, out of such moneys as come into their hands under this Act, expend any reasonable sum in erecting suitable buildings and premises for the use of the high school or in connection therewith:

Value of buildings not to exceed one-fifth value of whole property of school.
Ibid, sec. 14
1906, No. 38, sec. 3

Provided that no sale or other disposal of land shall be permitted for the purpose of applying the proceeds to the construction of buildings and premises in any case where the estimated value of all buildings and premises used as a high school, or in connection therewith, will be thereby so augmented as to exceed the one-fifth part of the estimated value of all the property belonging to such school.

School Commissioners of Education Reserves.

Appointment of School Commissioners of education reserves.
1882, No. 53, sec. 2

19. (1.) For every provincial district there shall be five School Commissioners of education reserves (hereinafter referred to as "the School Commissioners") who, with their successors in office, shall be a body corporate by the name of "The School Commissioners for the Provincial District."

(2.) The School Commissioners for each provincial district shall be appointed as follows:—

In the Provincial Districts of Auckland, Taranaki, Hawke's Bay, Nelson, and Marlborough respectively,—

Three persons for each district by the Governor; and

Two persons each by the Boards of the Education Districts of Auckland, Taranaki, Hawke's Bay, Nelson, and Marlborough respectively:

In the Provincial District of Wellington,—

Three persons by the Governor; and

One person each by the Boards of the Education Districts of Wellington and Wanganui respectively:

In the Provincial District of Canterbury,—

Three persons by the Governor; and

One person each by the Boards of the Education Districts of North Canterbury and South Canterbury respectively:

In the Provincial District of Otago,—

Three persons by the Governor; and
One person each by the Boards of the Education
Districts of Otago and Southland respectively:

In the Provincial District of Westland,—

Three persons by the Governor; and
One person each by the Boards of the Education
Districts of Westland and Grey respectively.

1892, No. 3, sec. 9

20. (1.) Any person may be appointed a School Commissioner for a provincial district who might be elected a member of a Board within that district, and any person who would be ineligible to be or continue such member shall also be ineligible to be or continue a School Commissioner.

Qualification of
School Commis-
sioners.
1877, No. 22, sec. 12
1892, No. 53, sec. 2

(2.) All appointments of School Commissioners shall be gazetted.

(3.) The School Commissioners in any provincial district shall come into office on the gazetted of their appointment, and shall remain in office until the thirty-first day of March in the third year from their coming into office, or until the coming into office of their successors.

(4.) If a School Commissioner dies, or resigns his office, or becomes ineligible as aforesaid, the Governor or the Board, as the case may require, may appoint another person in his stead; and the person so appointed shall continue in office for the residue only of the term for which his predecessor was appointed.

21. The School Commissioners may from time to time make by-laws for the regulation of their affairs and the general conduct of their business, and for appointing the times and places of their meetings.

School Commis-
sioners may make
by-laws.
Ibid, sec. 3

22. All reserves and endowments made or set apart for primary or secondary education under this or any other Act, and vested in any School Commissioners, shall, from the time of the making or setting apart thereof, vest in such School Commissioners without any grant, conveyance, or transfer.

Education reserves
and endowments
to vest in School
Commissioners.
Ibid, sec. 9

23. The District Land Registrar of the district where any land becomes vested as in this Act mentioned shall, on the deposit with him by any Education Board or School Commissioners of a copy of this Act, together with any *Gazette* or other instrument of authority by which such lands become vested under this Act, enter the same in his register-book as a folium thereof, and such folium shall be deemed to be the title to the land so vested.

Record of title in
register-book of
district.
Ibid, sec. 10

24. All moneys received by the School Commissioners, either as compensation or in payment for land taken from them for public works or otherwise sold by them under any special Act, shall be expended in the purchase of other lands held in fee-simple in New Zealand, to be held for the same purposes as the land for which such moneys were received.

Extraordinary
revenue from
reserves to be
applied in purchase
of other lands.
Ibid, sec. 13

Administration of Lands.

25. (1.) The School Commissioners and every Board may let any lands vested in them or it respectively at such rents and on such terms and conditions as may be deemed fit, subject nevertheless to the trusts and conditions contained in any instrument by which such lands have been so vested.

Power to lease
lands.
1877, No. 22, sec. 14

(2.) Such letting shall be by public auction or public tender, of which at least one month's public notice shall be given.

(3.) The term of the lease shall not exceed twenty-one years, except in the case of land situate within a town or city and suitable for building purposes, when the term may be any period not exceeding forty-two years; but no such lease shall contain any covenant or provision for a renewal or extension of the said term of forty-two years.

(4.) This section shall be construed subject to the provisions of "The Land Act, 1908," relating to the leasing of educational endowments and reserves, in so far as those provisions are applicable.

Leases of education reserves.

1907, No. 51, sec. 92

26. (1.) In the case of any lease of any education reserve or endowment or of any part thereof granted either before or after the coming into operation of this Act by the School Commissioners in whom such reserve or endowment is vested by virtue of "The Education Reserves Act, 1877," no transfer, sublease, or mortgage of any such lease shall be valid until and unless the written consent thereto of the said Commissioners has been obtained.

(2.) Nothing in this section shall apply to any transfer, sublease, or mortgage made or granted, or agreed to be made or granted, before the twentieth day of November, one thousand nine hundred and seven (being the date of the coming into operation of "The Land Laws Amendment Act, 1907"), or to any transfer executed by a mortgagee by virtue of a mortgage granted or agreed to be granted before that date.

Application of revenues by School Commissioners.

1877, No. 22, sec. 21

27. (1.) All revenues derived by the School Commissioners from the reserves vested in them shall, after deduction therefrom of the expenses of the management and administration thereof, be disposed of as follows:—

(a.) The revenues derived from reserves set apart for primary education shall be handed over to the Board or Boards within the provincial district in proportion to the population of each education district as determined from time to time by the census taken under "The Statistics Act, 1908":

1903, No. 73, sec. 17

(b.) The revenues derived from reserves set apart for secondary education shall be handed over by the School Commissioners to the governing bodies of secondary schools in the provincial district, in proportion to the number of pupils in average attendance at the several secondary schools, exclusive of the pupils in any preparatory department:

Provided that no school shall be entitled to any grant unless it is a public school, or a school established or governed under any Act of Parliament, or a school established under the Canterbury College in the Provincial District of Canterbury.

School Commissioners may construct subdivisional roads on reserves.

1905, No. 21, sec. 2

(2.) For the purposes of this section the expenses of management and administration of reserves shall be deemed to include the whole or any part of the cost of surveying, constructing, or improving any road, bridge, ferry, or ford necessary, in the opinion of the School Commissioners, to the leasing or subdivision of any land now or hereafter vested in them, and the construction or improvement of which

has been approved by the Minister; and the School Commissioners are hereby empowered to pay or contract to pay such cost in any manner they think fit.

(3.) Notwithstanding anything in this section, the School Commissioners may, if they think fit, pay over the revenue received by them from the Receiver of Goldfields Revenue, or any part thereof, to the local authority within whose district is situate any reserve in respect whereof such revenue accrued.

Power to pay goldfields revenue to local authority.
1905, No. 21, sec. 3

(4.) All revenue so paid over shall be expended by the local authority in or towards the construction or maintenance of such roads, bridges, ferries, or fords on or forming an approach to any land vested in the School Commissioners as aforesaid as may be agreed on between the said Commissioners and local authority, or, in the absence of such agreement, as the local authority thinks fit.

28. (1.) The School Commissioners shall keep full and true accounts of all moneys received by them under this Act, and the same shall be paid into such bank in New Zealand as they think fit.

School Commissioners to keep accounts and pay money into bank, &c.
1877, No. 22, sec. 13

(2.) The Governor may from time to time make regulations for the inspection and audit of the accounts of the School Commissioners, and may require from them such reports as he thinks fit on their administration of this Act.

Exchanges of Reserves.

29. (1.) The Governor may, in the name and on behalf of His Majesty, grant to any Trustees any Crown land or land vested in or acquired by the Crown in exchange for the whole or any portion of any endowment or reserve or any other land deemed by the Governor and the Trustees agreeing to the exchange to be of equal value with the land so granted; and the Governor and such Trustees may do or cause to be done all acts and things, and may make, sign, or execute all instruments necessary to carry out any such exchange.

Reserve may be exchanged for land of equal value to be appropriated to like purpose.
1891, No. 48, sec. 3

(2.) All land so received in exchange shall be held by the Trustees for the objects and purposes and upon the trusts (if any) for and upon which the land so given in exchange was held.

(3.) No such exchange shall be made without the previous consent in writing of the Trustees.

(4.) For the purposes of this section—

Ibid., sec. 2

“Trustees” means all persons and authorities, whether incorporate or not, in whom is vested, or who have the control of, any land set apart by way of endowment for any university, or high school, or any school under this Act, or for the purposes of primary or secondary or university education; and, in the case of reserves vested in the Crown, means the Governor.

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

- 1877, No. 22.—“The Education Reserves Act, 1877.”
 1880, No. 35.—“The High Schools Reserves Act, 1880.”
 1882, No. 53.—“The Education Reserves Act Amendment Act, 1882.”
 1889, No. 26.—“The Educational Endowments Act, 1889.”
 1891, No. 48.—“The Educational Endowments and Reserves Exchange Act, 1891.”
 1903, No. 73.—“The Secondary Schools Act, 1903.”
 1905, No. 21.—“The Education Reserves Act, 1905.”
 1906, No. 38.—“The High Schools Reserves Act Amendment Act, 1906.”
 1907, No. 47.—“The Education Act Amendment Act, 1907”: Section 25.
 1907, No. 51.—“The Land Laws Amendment Act, 1907”: Section 92.

SECOND SCHEDULE.

HIGH SCHOOLS TO WHICH THIS ACT APPLIES.

Section 2.
 1880, No. 35,
 Schedule.

Akaroa High School.	Palmerston North High School.
Ashburton High School.	Otago Boys' and Girls' High Schools.
Auckland Grammar School.	Rangiora High School.
Auckland Girls' High School.	Southland Boys' and Girls' High Schools
Christchurch Boys' High School.	Thames High School.
Christchurch Girls' High School.	Timaru High School.
Dannevirke High School.	Waimate High School.
Gisborne High School.	Waitaki High Schools.
Greymouth High School.	Wanganui Collegiate School.
Hokitika High School.	Wanganui Girls' College.
Mariborough High School.	Wellington College.
Napier High School.	Wellington Girls' High School.
Nelson College.	Whangarei High School.
New Plymouth High School.	