

Leases and Sales of Settled Estates.

ANALYSIS.

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Preamble.
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A BILL INTITULED

AN ACT to amend "The Leases and Sales of Settled Estates Act, 1865."

WHEREAS by the tenth section of "The Leases and Sales of Settled Estates Act, 1865," it was enacted that where the Supreme Court should deem it expedient that any general powers of leasing any settled estates conformably to the said Act should be vested in trustees, it might by order vest any such power accordingly, either in the existing trustees of the settlement or in any other persons; and that in every such case the Court, if it shall think fit, might impose any conditions as to consents or otherwise on the exercise of such power: And whereas, in order to protect the interests of persons interested in settled estates affected by such powers, the practice of the said Court has been to require that leases granted in pursuance of a power vested in any trustees or other persons under the provisions of the said tenth section of the said Act should be settled by the said Court or by a Judge thereof, or otherwise should be made conformable with a model lease deposited in the chambers of the Judge: And whereas the introduction of such a condition has been found to occasion delay and expense, and so to create great difficulties in carrying into execution the objects of the Act, and such conditions may in general be safely omitted; and it is therefore expedient that the said Act should be amended as hereinafter mentioned:

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

1. The Short Title of this Act shall be "The Leases and Sales of Settled Estates Act Amendment Act, 1872."

2. In orders to be hereafter made under the said tenth section for vesting any powers of leasing in any trustees or other persons, no condition shall be inserted requiring that the leases thereby authorized should be submitted to or be settled by the said Court or a Judge thereof, or be made conformable with a model lease deposited in the Judge's Chambers, save only in any case in which the parties applying for the order may desire to have any such condition inserted.

3. In all cases of orders already made in pursuance of the said tenth section in which any such condition as aforesaid has been inserted, it shall be lawful for any party interested to apply to the Court to alter and amend such order by striking out such condition, and the Court shall have full power to alter the same accordingly, and the order so altered shall have the same validity as if it had originally been made in its altered state; but nothing herein contained shall make it obligatory on the Court to act under this clause in any case in which, from the evidence which was before it when the order sought to be altered was made, or from any other evidence, it shall appear to the Court that there is any special reason why, in the case in question, such a condition is necessary or expedient.

4. And whereas doubts are entertained whether, in the construction of the first section of the said Act, the Court is bound by the state of facts existing at the period of the settlement taking effect, or by the state of facts at the time of an application to the Court under the said Act, and it is desirable that such doubts should be removed: Be it enacted, that the said Court, in determining what are settled estates within the said Act, shall, except as hereinafter provided, be governed by the state of facts and by the trusts or limitations of the settlement at the time of the said settlement taking effect; but in every case where pre-emptive rights under the Waste Lands Regulations of any Province, or other personal estate, shall be the subject of the settlement at the time of its taking effect, the Court shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the application to the Court under the said Act to exercise the powers conferred thereby.

5. It is hereby enacted, that all or any pre-emptive rights conferred by or acquired under any law for the time being in force in New Zealand, or any estate or interest acquired under such pre-emptive rights, shall, when subject to any settlement as mentioned in the said Act at the time of any such settlement taking effect, be and be deemed to be included within the meaning of the term "settled estates" mentioned in the said Act; and in the construction of the term "settled estates" as applicable to such pre-emptive rights, or to any estate or interest acquired thereunder, the Court shall be governed by the state of facts and the trusts or limitations of the settlement at the time of the application to the Court under the said Act to exercise the powers conferred thereby.

6. This Act shall be construed and dealt with as part of the said "Leases and Sales of Settled Estates Act, 1865," and all proceedings under this Act shall be subject to the same rules and orders, and shall be conducted in the same manner as proceedings under the said Act; and this Act shall extend and be applicable to all settlements, whether made before or after the passing of this Act.

Conditions already inserted may be struck out by Court.

27 & 28 Vict. c. 45, s. 2.

Removal of doubts as to construction of section 1 of recited Act.

Ib. s. 3.

Act to be construed with recited Act.

Ib. s. 4.