

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

14th December, 1921.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Coates.

MENTAL DEFECTIVES AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Native Trustee to administer estates of Natives of unsound mind.</p> <p>3. Section 88 of principal Act amended.</p> <p>4. Extension of powers of Public Trustee.</p> <p>5. Section 103 of principal Act amended.</p> <p>6. Section 115 of principal Act amended.</p> <p>7. Public Trustee may take proceedings on behalf of mental defective under Family Protection Act.</p> <p>8. Section 117 of principal Act amended.</p> <p>9. Section 119 of principal Act amended.</p>	<p>10. Dissolution of partnership of which mental patient is member.</p> <p>11. Application of sections 12 and 13 to United Kingdom or British possession.</p> <p>12. Power of Public Trustee on certificate of proper officer in other British possession to administer property in New Zealand of mental patient confined in the other British possession.</p> <p>13. Order or declaration in lunacy in other British dominions to have like effect in New Zealand on being resealed.</p> <p>14. Interpretation of term "British possession" in preceding sections.</p>
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A BILL INTITULED

AN ACT to amend the Mental Defectives Act, 1911.

Title.

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 Mental Defectives Amendment Act, 1921, and shall be read together with and deemed part of the Mental Defectives Act, 1911 (hereinafter referred to as the principal Act).

Short Title.

2. (1.) The notices required to be given under subsection one or subsection two of section eighty-seven of the principal Act shall, in the case of patients who are Natives within the meaning of the Native Land Act, 1909, be sent to the Native Trustee, and not to the Public Trustee.

Native Trustee to administer estates of Natives of unsound mind.

(2.) Section eighty-eight of the principal Act shall not apply in respect of Natives who are patients within the meaning of that Act, and all such persons and their estates shall be and continue to be subject to Part X of the Native Land Act, 1909 (relating to Native persons under disability).

3. Section eighty-eight of the principal Act is hereby amended by omitting the words "if no committee or administrator of his estate has been appointed," and substituting the words "if and so long as no committee or administrator is in office."

Section 88 of principal Act amended.

4. (1.) Section one hundred of the principal Act is hereby amended by adding the following paragraphs:—

Extension of powers of Public Trustee.

"(s.) Where that person is a mortgagor or mortgagee of any land, agree to extend or vary the mortgage on such terms as the Public Trustee thinks fit:

- “(t.) On behalf of and in the name of the mentally defective person, enter into any scheme of family arrangement to which the mentally defective person is a necessary party:
- “(u.) Apply any moneys belonging to that person in the reinstatement or rebuilding of any property of that person destroyed by fire or otherwise, either wholly or partially: 5
- “(v.) Agree to an alteration of the conditions of a partnership into which that person has entered for the purpose of more advantageously disposing of or winding up the business or preserving the same until the recovery of that person: 10
- “(w.) Exercise any power of sale or other power vested in that person as mortgagee or lessor:
- “(x.) Carry on any trade or business of that person for a period not exceeding two years.” 15

(2.) Section one hundred and one of the principal Act is hereby amended as follows:—

Struck out.

- (a.) By adding to paragraph (a) thereof the words “Provided that the leave of the Supreme Court shall not be required where the value of the property to be sold by the Public Trustee does not exceed one thousand pounds or, whatever the value of the property to be sold, where such sale is necessary for the payment of any debts, obligations, or liabilities of that person.” 20 25

(b.) By adding the following paragraph:—

- “(i.) Expend any moneys belonging to that person in the purchase of a home for that person or for his or her wife, husband, or children.” 30

5. Section one hundred and three of the principal Act is hereby amended as follows:—

- (a.) By adding, after the words “Public Trustee” where those words first occur in subsection one, the words “or a Local Deputy Public Trustee”; and by inserting, after the word “Wellington” in the same subsection, the words “or in such other office of the Supreme Court as the Public Trustee determines.” 35

- (b.) By omitting from subsection one and also from subsection two the words “five hundred pounds,” and in each case substituting the words “two thousand pounds.” 40

6. Section one hundred and fifteen of the principal Act is hereby amended by adding the following subsection:—

- “(3.) The Public Trustee shall be entitled to be heard on any such application, and the costs of the Public Trustee (including the costs of obtaining such reports as the Public Trustee deems necessary) shall be allowed to the Public Trustee out of the estate of such mentally defective person.” 45

7. The Public Trustee may in the name and on behalf of any mentally defective person, and whether such mentally defective person is possessed of any estate or not, make any application to the Supreme Court under Part II of the Family Protection Act, 1908, which that person would be entitled to make if he were not mentally defective. 50

Section 103 of principal Act amended.

Section 115 of principal Act amended.

Public Trustee may take proceedings on behalf of mental defective under Family Protection Act.

8. Section one hundred and seventeen of the principal Act is hereby amended by adding the following subsection:—

Section 117 of principal Act amended.

“(5.) The Public Trustee may commence or institute proceedings against such committee for any breach of duty, and may apply to the Court *ex parte* for an injunction to restrain any such breach or any threatened breach of trust.

Struck out.

9. Section one hundred and nineteen of the principal Act is hereby amended by adding in subsection one thereof, after the words “on all moneys,” the words “whether capital or income.”

Section 119 of principal Act amended.

10. 10. (1.) Where any mentally defective person whose estate is being administered by the Public Trustee is a member of a partnership, the Public Trustee may, in the name of such mentally defective partner, dissolve the partnership in the same manner in all respects as such mentally defective person could have done had he not been mentally defective.

Dissolution of partnership of which mental patient is member.

(2.) On such dissolution the Public Trustee, in the name and on behalf of the mentally defective person, may join with the other partner or partners in disposing of the partnership property, as well as real as personal, whether to such partner or partners or to any other persons, upon such terms and in such manner as the Public Trustee thinks fit.

11. (1.) The Governor-General, on being satisfied that the laws in force in any British possession (other than New Zealand) are such as to enable powers to be exercised in that possession in cases of lunatic patients residing in New Zealand substantially similar to the powers contained in the *next succeeding* section in cases of lunatic patients residing in that possession, may by Proclamation approved in Executive Council, declare that the said section shall, subject to any exceptions and modifications specified in the Proclamation, apply to that possession, and thereupon while such Proclamation is in force the said section shall apply accordingly.

Application of sections 12 and 13 to United Kingdom or British possession. Victoria, No. 2687, sec. 262

(2.) The Governor-General, on being satisfied that adequate provision has been made by the laws of the United Kingdom or of any British possession (other than New Zealand) for the recognition in the United Kingdom or any such British possession of orders and declarations made by the Supreme Court of New Zealand in the exercise of its jurisdiction in lunacy may, by Proclamation approved in Executive Council, declare that section *thirteen* hereof shall, subject to any exceptions and modifications specified in the Proclamation, apply to the United Kingdom or any such possession, and thereupon while such Proclamation is in force the said section shall apply accordingly.

(3.) Any Proclamation under this section may be in like manner revoked or altered.

(4.) A copy of every Proclamation under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

12. (1.) If the officer charged by the laws of any British possession (other than New Zealand) with the care, recovery, collection, preservation, and administration of the property and estates of lunatic patients in any hospital, asylum, or other place situate therein and authorized for the reception and care of persons of unsound mind certifies in writing under his hand and seal to the Public Trustee that any person is a lunatic patient residing in such

Power of Public Trustee on certificate of proper officer in other British possession to administer property in New Zealand of mental patient confined in the other British possession. Victoria, No. 2687, sec. 263

British possession, and that he is confined in any such hospital, asylum, or other place, and that he is possessed of or entitled to, or appears to be entitled to, or interested in real or personal property in New Zealand, and by instrument in writing under his hand and seal authorizes the Public Trustee to collect, manage, sell, or otherwise dispose of and administer such property or to make inquiry respecting the same, the Public Trustee shall have and may exercise over and in respect of such property all powers of collection, management, sale, disposition, administration, and inquiry, and all the provisions of the principal Act and this Act shall apply in respect to such property to the like extent and in the same manner as if such lunatic patient were a resident of New Zealand and a patient within the meaning of the principal Act.

Victoria, No. 2687,
sec. 264

(2.) The Public Trustee may pay over or deliver to such officer as aforesaid the balance of moneys or properties received by him after payment of all costs, charges, and expenses incurred in and about the exercise of the aforesaid powers, and, after satisfying or providing for the debts and claims of all persons resident in New Zealand of whose debts or claims he has had notice, without seeing to the application thereof and without incurring any liability in regard to such payment; and shall duly account for the same to such officer.

(3.) This section shall not apply with respect to any British possession or to any patients residing therein, save as provided in subsection *one* of section *eleven* hereof.

Order or declaration
in lunacy in other
British dominions
to have like effect
in New Zealand on
being resealed.
Ibid., sec. 265

13. (1.) When any order or declaration made by a Court of competent jurisdiction under the laws of the United Kingdom or any British possession in the exercise of its jurisdiction in lunacy is produced to and a copy thereof deposited with a Registrar of the Supreme Court of New Zealand, such order or declaration shall, subject to the payment of the prescribed duties or fees (if any), be sealed with the seal of the Court, and shall have the like force and effect and have the same operation, and every master, curator, guardian, committee, or receiver acting thereunder shall perform the same duties and be subject to the same liabilities in New Zealand as if such order or declaration had been originally made by the Court:

Provided that a guardian, committee, or receiver appointed under any such order shall not have or exercise any power or authority thereunder after the same has been so sealed until his appointment has been confirmed by the Court or a Judge thereof, which confirmation may be granted upon such terms as the Court or Judge thinks fit, or may be refused.

(2.) This section shall apply to such orders and declarations whether made before or after the passing of this Act.

(3.) This section shall not apply to the United Kingdom or to any British possession, or to orders or declarations made by any Court therein, save as provided by subsection *two* of section *eleven* hereof.

Interpretation of
term "British
possession" in
preceding sections.
Ibid., sec. 261

14. In the construction of the *three last* preceding sections, unless inconsistent with the context or subject-matter, "British possession" means any part of the British dominions exclusive of the United Kingdom.