

Hon. Sir William Herries.

NATIVE TRUSTEE.

ANALYSIS.

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A BILL INTITULED

AN ACT to provide for the Appointment of a Native Trustee, and to make Better Provision for the Administration of Native Reserves. Title.

5 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 Act, 1920, and shall come into operation on the first day of April, nineteen hundred and twenty-one. Short Title and commencement.

2. In this Act, if not inconsistent with the context,—
“Native reserve” means any land which on the commencement of this Act is vested in the Public Trustee under the Native Reserves Act, 1882, or the West Coast Settlement Reserves Act, 1892, or the Westland and Nelson Interpretation.
Cf. 1919, No. 15,
sec. 2.

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Native Reserves Act, 1887, or under any amendment of any of those Acts or under any other Act in force at the commencement of this Act whereby any land is expressly vested in the Public Trustee as a Native reserve :

“ Native Trust Office Board ” or “ Board ” means the Native Trust Office Board constituted by this Act. 5

Establishment of Native Trust Office.

3. There is hereby established an office to be called the Native Trust Office, which shall be charged with the administration of this Act, and shall form part of such Department of State as may from time to time be lawfully determined in that behalf. 10

Appointment of Native Trustee and of Deputy Native Trustee.

4. For the purposes of this Act there shall be appointed an officer of the Public Service to be called the Native Trustee, and also an officer to be called the Deputy Native Trustee.

Powers and functions of Deputy Native Trustee.

5. (1.) The Deputy Native Trustee shall, under the control of the Native Trustee, perform such general official duties in respect of the administration of this Act as he is called upon to perform by the Native Trustee. 15

(2.) On the occurrence from any cause of a vacancy in the office of the Native Trustee (whether by reason of death, resignation, or otherwise) and in case of the absence from duty of the Native Trustee (from whatever cause arising), and so long as such vacancy or absence continues, the Deputy Native Trustee shall have and may exercise all the powers, duties, and functions of the Native Trustee. 20

(3.) The fact of the Deputy Native Trustee exercising any power, duty, or function as aforesaid shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorizing him so to do. 25

Incorporation of Native Trustee.

6. The Native Trustee is hereby constituted a corporation sole with perpetual succession and a seal of office. 30

Courts to take judicial notice of appointment of Native Trustee and of official seal.

7. All Courts shall take judicial notice of the appointment of the Native Trustee and the Deputy Native Trustee, of their respective signatures, and of the official seal.

Contracts of Native Trustee.

8. (1.) Any contract which, if made between private persons, must be by deed shall, if made by the Native Trustee, be in writing signed by him and sealed with his official seal. 35

(2.) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Native Trustee, be in writing signed by the Native Trustee or by some person duly authorized by him in that behalf. 40

(3.) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Native Trustee.

Appointment of officers of Native Trust Office.

9. (1.) There shall be appointed from time to time such Inspectors, clerks, workmen, and other officers as may be required for the administration of any Native reserve under this Act, and generally for the purpose of carrying on the business of the Native Trust Office. 45

(2.) All appointments to the Native Trust Office shall be made in the manner prescribed by the Public Service Act, 1912, and all persons so appointed shall be officers of the Public Service and subject accordingly to the provisions of that Act. 50

10. (1.) There shall be a Board to be called the Native Trust Office Board. Native Trust Office Board.

(2.) The Board shall consist of—

- 5 (a.) The Native Minister ;
 (b.) One other member of the Executive Council, being a Native or half-caste, to be appointed by the Governor-General ;
 (c.) The Native Trustee ;
 (d.) The Under-Secretary of Native Affairs ;
 (e.) The Under-Secretary of Lands ; and
 10 (f.) One other person, being a European, to be appointed by the Governor-General.

(3.) The member appointed under paragraph (f) of the *last preceding* subsection shall be appointed for a term of two years, but shall be eligible for reappointment from time to time, and may be
 15 removed at any time by the Governor-General for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Governor-General.

11. No act done by the Board shall be invalid because of any
 20 vacancy in the membership of the Board, or because of any person continuing to act as a member of the Board after having vacated his seat thereon, or because of any defect or irregularity in the appointment of any member of the Board. Acts of Board not invalidated by reason of vacancy in membership.

12. (1.) Meetings of the Board shall be held at such times and
 25 places as the Board or the Chairman may from time to time appoint, or as may from time to time be prescribed. Conduct of business of Native Trust Office Board.

(2.) At all meetings of the Board four members shall form a quorum, and no business shall be transacted at any meeting of the Board unless a quorum is present thereat.

30 (3.) The Native Minister shall be the Chairman of the Board, and shall preside at all meetings of the Board at which he is present.

(4.) In the event of the absence of the Chairman from any meeting of the Board the members present may elect one of their number to be chairman of that meeting.

35 (5.) At any meeting of the Board the decision of a majority of the members present shall be the decision of the Board.

(6.) On all questions before the Board the Chairman shall have a deliberative vote, and, in case of an equality of votes, shall have a casting-vote also.

40 (7.) All proceedings and resolutions of the Board shall be recorded in a minute-book in English, and, if and when so directed by the Board, shall be recorded in Maori also.

(8.) A resolution of the Board shall bind the Native Trustee.

45 (9.) All minutes or resolutions of any meeting of the Board or a copy thereof purporting to be signed by the Chairman of the meeting shall be *prima facie* evidence of such minutes or resolutions.

(10.) Subject to the provisions of this Act or of regulations thereunder, the Board may regulate its own procedure.

13. All Native reserves which on the commencement of this
 50 Act are vested in the Public Trustee shall thereupon by force of this Act, and without the necessity of any instrument of conveyance or other assurance, be transferred to and vest in the Native Trustee, Transfer of Native reserves to Native Trustee.

who shall hold the same for the same estate, upon the same trusts, with the same functions, powers, and duties, and with the same liabilities and engagements, as in the case of the Public Trustee immediately prior to the coming into operation of this Act.

References to Public Trustee in relation to Native reserves to be construed as references to Native Trustee.

14. In all Acts and instruments whatsoever all references to the Public Trustee with respect to any Native reserve shall, after the commencement of this Act, be construed, so far as may be necessary for the purpose of giving effect to this Act, as references to the Native Trustee, and all references to the Public Trust Office Board with respect to any such reserve shall be construed as references to the Native Trust Office Board constituted by this Act. 5

Registration of title of Native Trustee.

15. (1.) It shall be the duty of the several District Land Registrars to make, without fee or other charge, all entries in their registers necessary for the purpose of registering the title of the Native Trustee in any Native reserve vested in him pursuant to this Act. 10

(2.) For the purposes of this section a certificate under the hands and seals of the Public Trustee and the Native Trustee that any land is a Native reserve within the meaning of this Act, and is transferred to the Native Trustee pursuant to this Act, shall, unless and until the contrary is proved, be sufficient evidence of that fact. 20

Native Trustee's Account.

16. (1.) There is hereby established an account to be called the Native Trustee's Account, which shall be kept at the bank at which for the time being the Public Account of New Zealand is kept.

(2.) The Native Trustee's Account shall be operated on only by cheque signed by the Native Trustee or the Deputy Native Trustee, and by such other person as may be appointed in that behalf by the Board. 25

(3.) All moneys payable into the Native Trustee's Account are hereby declared to be public moneys within the meaning of the Public Revenues Act, 1910, and shall be subject to the provisions of Part X of that Act accordingly. 30

Transfer of moneys from Public Trustee to Native Trustee's Account.

17. (1.) On the request in writing of the Native Trustee, the Public Trustee shall pay into the Native Trustee's Account—

(a.) All moneys held by him in respect of any Native reserve: 35

(b.) All moneys held by him on account of any Maori Land Board pursuant to the powers of investment conferred on Maori Land Boards by section thirty-five of the Native Land Amendment Act, 1913, or the corresponding provisions of the Native Land Act, 1909: 40

(c.) All moneys held by him pursuant to the provisions of Part X of the Native Land Act, 1909, on account of any Native being a person under disability within the meaning of that Act:

(d.) All moneys held by him on account of any Natives pursuant to the provisions of section two hundred and twenty-six of the Native Land Act, 1909, or of section ninety-two of the Native Land Amendment Act, 1913, or of sections two hundred and twenty-eight, three hundred and thirty-three, three hundred and thirty-five, three hundred and seventy-six or four hundred and twenty-eight of the Native Land Act, 1909: 45 50

(e.) All other moneys held by him in respect of Natives pursuant to any statute specifically relating to Natives.

(2.) If any question arises as to the application of this section to any moneys held by the Public Trustee, it shall be submitted to the determination of the Minister of Finance, whose decision shall be final.

18. There shall also be paid into the Native Trustee's Account—

(a.) All moneys that may hereafter be payable in respect of any Native reserve, and that would be payable to the Public Trustee if this Act had not been passed ;

(b.) All moneys hereafter payable in respect of any Natives pursuant to any statute and that would be payable to the Public Trustee if this Act had not been passed ; and

(c.) All other moneys payable to the Native Trustee pursuant to any lawful authority.

Other moneys payable into Native Trustee's Account.

19. All moneys in the Native Trustee's Account shall be held by the Native Trustee in accordance with the trusts affecting the same.

Native Trustee to hold moneys on trust for beneficiaries.

20. Any moneys in the Native Trustee's Account may be invested by the Board in any of the following classes of security, namely :—

Investment of moneys in Native Trustee's Account.

(a.) In securities of the Government of New Zealand ; or

(b.) In debentures lawfully issued by the governing body of any county, borough, road district, town district, river district, water-supply district, or drainage district, or any Harbour Board, under any law now or hereafter in force, and secured upon general or special rates, or partly by rates and partly in some other manner ; or

(c.) In advances secured by the mortgage of any freehold or leasehold interest in any Native freehold land in respect of which a partition order has been duly made, or in any Native land vested in any Maori Land Board, or in any Native freehold land vested in the incorporated owners thereof, to an amount not exceeding in any case three-fifths of the estimated value of the security according to a valuation approved by the Board ; or

(d.) In advances secured by the first mortgage of any land held in fee-simple in New Zealand, to an amount not exceeding three-fifths of the estimated value thereof, according to a valuation approved by the Board ;

(e.) On deposit in any bank of issue in New Zealand or in the Post Office Savings-bank ; or

(f.) In any other securities that may from time to time be authorized by the Governor-General in Council on the recommendation of the Board.

21. All contracts and engagements entered into and liabilities incurred by the Public Trustee with respect to any Native reserve, and subsisting on the coming into operation of this Act, shall thereupon by virtue of the Act be deemed to be transferred to and devolve upon the Native Trustee, and thereupon the Public Trustee shall cease to be liable in respect thereof.

Transfer from Public Trustee to Native Trustee of rights and liabilities under contracts.

Saving of orders
under section 172 of
Native Land Act.

22. All orders made under section one hundred and seventy-two of the Native Land Act, 1909, and subsisting at the commencement of this Act for the appointment of the Public Trustee as the trustee of any persons under disability, shall thereafter operate as if the appointment were the appointment of the Native Trustee and not of the Public Trustee. 5

Regulations.

23. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes, namely:—

- (a.) Prescribing the respective duties and functions of the Native Trustee, the Deputy Native Trustee, and the Native Trust Office Board: 10
- (b.) Prescribing the accounts to be kept by the Native Trustee:
- (c.) For the investigation and audit of the accounts of the Native Trustee: 15
- (d.) For the investment, subject to the provisions of this Act, of moneys in the Native Trustee's Account:
- (e.) For the inspection of Native reserves:
- (f.) Prescribing the rate of commission to be charged by the Native Trustee in respect of the collection of rents and other moneys, and prescribing other fees and charges in respect of his duties under this Act: 20
- (g.) Generally for the purpose of giving effect to the intent of this Act.

Consequential
amendments of
Native Land Acts.

24. The Acts mentioned in the Schedule hereto are hereby consequentially amended in the manner and to the extent indicated in that Schedule. 25

SCHEDULE.

Schedule.

Title of Act.	Extent of Amendment.
1909, No. 15.—The Native Land Act, 1909	Section 2: By adding to the definition of "State Loan Department" the words "(d.) The Native Trust Office."
	Section 24: By omitting from paragraph (e) the words "Public Trustee," and substituting the words "Native Trustee."
	Section 29: By inserting after the words "Public Trustee" the words "or Native Trustee."
	Section 31: By omitting from subsection (3) the words "Public Trustee," and substituting the words "Native Trustee."
	Section 112: By omitting the words "Public Trustee," and substituting the words "Native Trustee."
	Section 113: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
	Section 132: By omitting from subsection (3) the words "Public Trustee," and substituting the words "Native Trustee."
	Section 172: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
	Section 185: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
	Section 213: By omitting the words "Public Trustee," and substituting the words "Native Trustee."
	Section 228: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee"; by omitting from subsection (3) the words "Public Trust Office," and substituting the words "Native Trust Office."
	Section 232: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
	Section 333: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
	Section 335: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
	Section 376: By omitting from paragraph (b) the words "Public Trustee," and substituting the words "Native Trustee."
	Section 424: By omitting the words "Public Trustee," and substituting the words "Native Trustee."
	Section 428: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
1910, No. 60.—The Rating Amendment Act, 1910	Section 15: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
	Section 17: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."

SCHEDULE—*continued.*

Title of Act.	Extent of Amendment.
1912, No. 34.—The Native Land Amendment Act, 1912	Section 19: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."
1913, No. 54.—The Rating Amendment Act, 1913	Section 9: By omitting from subsection (2) the words "Public Trustee," and substituting the words "Native Trustee."
1913, No. 58.—The Native Land Amendment Act, 1913	<p>Section 16: By omitting the words "Public Trustee," and substituting the words "Native Trustee."</p> <p>Section 83: By inserting after the words "Public Trustee" the words "or the Native Trustee."</p> <p>Section 92: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee"; by omitting from subsection (2) the words "or otherwise invest the same for the benefit of such Native."</p> <p>Section 109: By omitting from subsection (11) the words "Public Trustee," and substituting the words "Native Trustee."</p> <p>Section 125: By inserting after the words "Public Trustee" the words "or the Native Trustee."</p> <p>Section 132: By omitting the words "Public Trustee" wherever they occur, and substituting the words "Native Trustee."</p>

By Authority: MARCUS F. MARKS, Government Printer, Wellington.—1920.